



**LEGISLATION AND PUBLIC POLICY
COMMITTEE (LPPC)
MEETING NOTICE/AGENDA**

Posted at www.scdd.ca.gov

DATE: May 7, 2014

TIME: 10:00 a.m. – 3:00 p.m.

LOCATION: State Council on Developmental Disabilities
1507 21st Street, Suite 210
Sacramento, CA 95811
916/322-8481

TELECONFERENCE SITES:

Area Board 7
2580 North First Street, Suite 240
San Jose, CA 95131

Westside Regional Center
5901 Green Valley Circle,
Suite 320, Room 3c
Culver City, CA 90230

Pursuant to Government Code Sections 11123.1 and 11125(f), individuals with disabilities who require accessible alternative formats of the agenda and related meeting materials and/or auxiliary aids/services to participate in the meeting, should contact Michael Brett at 916/322-8481 or michael.brett@scdd.ca.gov by 5 pm on May 4, 2014.

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- | | |
|----------------------------|----------|
| 1. CALL TO ORDER | J. Lewis |
| 2. ESTABLISHMENT OF QUORUM | J. Lewis |

- | | | | |
|----|-----------------------------------|----------|---|
| 3. | WELCOME AND INTRODUCTIONS | J. Lewis | |
| 4. | APPROVAL OF 4/9/14 MINUTES | J. Lewis | 3 |
| 5. | PUBLIC COMMENTS | | |

This item is for members of the public to comment and/or present information to the Council. Each person will be afforded up to three minutes to speak. Written requests, if any, will be considered first. The Council will also provide a public comment period, not to exceed a total of seven minutes, for public comment prior to action on each agenda item.

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|-----|--|----------|----|
| 6. | MEMBER REPORTS | All | |
| 7. | STATE BUDGET | M. Polit | |
| 8. | LEGISLATION | M. Polit | |
| | A. Status of Bills with Council Position | | 8 |
| | B. AB 1335 (Maienschein) and SB 922 (Knight), Sentencing of Sex Offenders | | |
| | C. SB 1396 (Hancock), Positive Behavior Intervention | | 20 |
| | D. AJR 36 (Gonzalez), Sub-minimum Wage | | 35 |
| | E. SB 1109 (Hueso), State Contracting and Sub-minimum Wage | | |
| | F. SB 1160 (Beall), State Contracting and Log-term SEP | | 39 |
| | G. SB 1176 (Steinberg), Tracking Insurance Out of Pockets | | 52 |
| | H. SB 1178 (Correa), Housing for People with IDD | | 64 |
| | I. AB 1687 (Conway), Timely Investigation | | 79 |
| | J. SB 1428 (Evans) and AB 2349 (Yamada), Sonoma DC Land Use and transition | | 90 |
| | K. Other legislation | | |
| 9. | IHSS TRAINING BALLOT MEASURE | M. Polit | 98 |
| 10. | PLANNING FOR NEXT MEETING | J. Lewis | |
| 11. | ADJOURNMENT | J. Lewis | |

DRAFT

Legislative and Public Policy Committee (LPPC)

Minutes

April 9, 2014

Members Present

Janelle Lewis, Chair
Evelyn Abouhassen
Jennifer Allen
Ray Ceragioli
Lisa Davidson
Connie Lapin

Members Absent

Feda Almaliti
David Forderer
April Lopez

Others Attending

Mark Polit (Staff)
Robert Phillips (Staff)
Gabriel Rogin (Staff)
David Grady (Staff)
Anastasia Bacigalupo (Staff)

1. CALL TO Order

Chairperson Lewis Called the meeting to order at 10.10 AM

2. ESTABLISHMENT OF A QUORUM

A quorum was established

3. WELCOME AND INTRODUCTIONS

Members introduced themselves.

4. APPROVAL OF MARCH 5, 2014 MINUTES

Connie Lapin moved and Lisa Davidson seconded to approve the March 5, 2014 minutes. Motion Passed (5-0-1).

5. PUBLIC COMMENTS:

None

6. MEMBER REPORTS

Members gave reports of their activities.

7. LEGISLATIVE PLATFORM

Mark Polit updated the committee that the Council will review the proposed platform at its May 29 Council meeting. Evelyn Abouhassen emphasized that the rate section be highlighted to the Council, so that family and consumer issues are primary. Mark explained that the second part of the rate section addresses that issue, and that the Council will be briefed

8. LEGISLATION

The committee discussed the state budget. No further actions were taken.

9. DC TASK FORCE RECOMMENDATIONS

The committee discussed the task force recommendations and noted that supported living should have been highlighted more in the report as an option for people leaving developmental centers.

Ray Ceragioli moved and Connie Lapin seconded to recommend that the Council support in general the recommendations of the Task Force in principle. The motion carried 5-0-1

There was discussion about the meaning of “in general” and “in principle” as used in the motion. Some thought it meant “support”. The committee left it to the Council to further discuss.

10. LEGISLATION

A-.Status of Bills with Council Position – Mark Polit reviewed the status of bills, noting the new co-sponsorship of AB 2299 (Nazarian) and support for AB 1626.

B. AB 1089 (Calderon) – AB 1089 sponsors Brian Capra from Public Counsel Law Center and Sasha Stern from the Alliance for Children’s Rights presented on the bill. They described the need for the bill and gave two case stories of significant delays in regional center services affecting the development of infants with developmental delays. Connie Lapin expressed a concern about the ability to implement the bill within the

timeline. They expressed an openness to work with ARCA and SEIU on the details of the legislation, to make it as practical as possible to meet the deadlines in the bill. There is a meeting scheduled with the opposition in late May.

Connie Lapin moved and Lisa Davidson seconded to recommend that the Council support AB 1089. The motion passed 6-0-0.

C. AB 1626 (Maienschein). Evelyn noted that DRC has changed its position on AB 1626 to support if amended to address the issue of subminimum wage. Mark noted that some members of the Employment First Committee expressed that concern, but the EFC took no action on the bill.

D. AB 1806 (Bloom), Homeless students. Homeless children and youth with exceptional needs, and other homeless students, will have protections during transfer and expulsion processes that are afforded foster youth.

Ray Ceragioli moved and Connie Lapin seconded to to recommend support of AB 1806 to the Council. The motion carried 6-0-0.

E. AB 2057 (Bonilla), Urgency legislation to waive a testing requirement, so students with significant disabilities would not be required to take two test in 2013/14 school year. No action was taken, as the Council could not act prior to passage.

F. SB 1046 (Beall), Penalties for Violations of Insurance Code. This bill would give the insurance commissioner the authority to assess penalties for violations of provisions in the insurance code for coverage of the diagnosis and treatment of severe mental illness, serious emotional disturbance, and behavioral health treatment of pervasive developmental disorder and autism.

Connie Lapin moved and Ray Ceragioli seconded to recommend that the Council support SB 1046 (Beall). The motion passed 6-0-0.

G. SB 1093 Liu, (Equity). Evelyn Abouhassen explained that DRC is the sponsor of the bill. The bill covers four areas (1) RC performance contracts shall include objectives to increase utilization by underserved communities and a process to develop those objectives. (2) RCs shall keep prior year disparity data on their websites so the public can compare their performance to prior years. (3) RCs shall hold meetings with the public on their disparity data. The meetings shall not be a part of RC Board meetings

and be at times and in places accessible to RC clients and their families.
(4) Requires RD+Cs to fund independent living services for consumers living in their family home.

Ray Ceragioli moved and Connie Lapin seconded to recommend that the Council support SB 1093 (Liu). The motion passed 6-0-0.

H. SB 1396 (Hancock), Positive Behavior Intervention. This would create a statewide professional development effort to provide training in school wide positive behavior support. The Committee wanted more information to review at the May LPPC meeting. They especially wanted information on the type of training and the issue of equitable discipline, as opposed to individualized response to students' needs.

Ray Ceragioli moved and Jennifer Allen seconded to watch SB 1396. The motion passed 6-0-0.

I. SB 1428 (Evans), Land Use at SDC. The Committee asked for more information on the meaning of "Development of new or improved public or private core resident care facilities on the site." The bill will be considered at the next committee meeting.

J. Other Legislation.

The committee discussed AB 2041 (Jones) that would expand the definition of behavioral health treatment. The committee reviewed the opposition letter from ARCA. Connie Lapin moved and Lisa Davidson seconded to recommend that the Council support AB 2041. The motion passed 4-0-1.

The committee discussed AB 1753 (Holden) that would allow a regional center vendor to provide services in any regional center. The committee reviewed the ARCA opposition letter. Ray Ceragioli moved and Connie Lapin seconded to recommend that the Council support AB 1753. The motion passed 5-0-1

The committee discussed SB 922 (Knight) and AB 2349 (Yamada) and will discuss these bills further at the May 7 committee meeting.

11. PLANNING FOR NEXT MEETING

The next meetings will be May 7, June 11, and September 4 from 10:00 AM to 3:00 PM. Implementation of Self-Determination will be a standing agenda item. The May 7 meeting will include a discussion of the IHSS training ballot initiative. Parental fees will be revisited. Legislation to be

reviewed will include SB 922 (Knight) and AB 1335 (Maienschein) on maximum penalties for sexual crimes against people with IDD; SB 1109 (Hueso) and AJR 36 (Gonzales) on subminimum wage; AB 2349 (Yamada) and SB 1428 (Evans) on developmental centers; AB 1687 (Conway) on timely investigation;

11. ADJOURNMENT

Chairperson Lewis adjourned the meeting at 3:05 PM.



LPPC Legislative Report
As of 4/25/2014

GoTo:

[AB 1089](#)

([Calderon, Ian D](#)) Foster care. (Amended: 6/17/2013 [act](#) [amnd](#))

Status: 7/12/2013-Failed Deadline pursuant to Rule 61(a)(10)(SEN). (Last location was HUM. S. on 6/17/2013)

Location: 7/12/2013-S. 2 YEAR

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptiered
Dead	1st House				2nd House				Conc.			

Summary:

The Lanterman Developmental Disabilities Services Act authorizes the State Department of Developmental Services to contract with regional centers to provide services and support to individuals with developmental disabilities and their families. The services and supports to be provided to a regional center consumer are contained in an individual program plan or individualized family service plan developed in accordance with prescribed requirements.

This bill would specify the transfer procedures that would apply when a consumer of regional center services who has an order for foster care, is awaiting foster care placement, or is placed in out-of-home care transfers between regional centers or local educational agencies. Among other things, the bill would require the county social worker or county probation officer to immediately send a notice of relocation, as defined, to the sending regional center of the, and would require the sending regional center to immediately send a notice of transfer, as defined, to the receiving regional center, as specified. The bill would specifically provide that these procedures and timelines apply to local educational agencies. By imposing new duties and a higher level of service on county employees, the bill would impose a state-mandated local program.

This bill contains other related provisions and other existing laws.

Position Watch

Priority :

[AB 1335](#)

([Maienschein R](#)) Sex offenses: disabled victims. (Amended: 1/8/2014 [act](#) [wmu](#))

Status: 2/6/2014-Referred to Com. on PUB. S.

Location: 2/6/2014-S. PUB. S.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptiered
Dead	1st House				2nd House				Conc.			

Summary: (1) Existing law, as amended by Proposition 83, the Sexual Predator Punishment and Control Act (Jessica's Law), approved by the voters at the November 7, 2006, statewide general election, provides that a defendant shall be punished by imprisonment in the state prison for 25 years to life if convicted of certain crimes, including rape, sexual penetration, sodomy, oral copulation, continuous sexual abuse of a child, or rape, spousal rape, or sexual penetration in concert, if certain circumstances were present, including, among other things, in the commission of that offense, any person kidnapped the victim, tortured the victim, or committed the offense during the commission of a burglary, as specified. Existing law further provides that a defendant shall be punished by imprisonment in the state prison for 15 years to life if convicted of certain crimes, including rape, sexual penetration, sodomy, oral copulation, continuous sexual abuse of a child, or rape, spousal rape, or sexual penetration in concert, if certain circumstances were present, including, among other things, in the commission of that offense any person, except as specified in the provisions above, kidnapped the victim, committed the offense during the commission of a burglary, or used a dangerous or deadly weapon in the commission of the offense. Proposition 83 provides that the Legislature may amend the

provisions of the act to expand the scope of their application or increase the punishment or penalties by a statute passed by a majority vote of each house. This bill would add the crimes of rape, sexual penetration, sodomy, and oral copulation, perpetrated against a person who is incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, to the above provisions. By applying the above enhancements to these crimes, this bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

Position Watch

Priority :

[AB 1595](#)

([Chesbro D](#)) State Council on Developmental Disabilities. (Amended: 4/21/2014 [enr](#) [html](#))

Status: 4/22/2014-Re-referred to Com. on HUM. S.

Location: 4/22/2014-A. HUM. S.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

Calendar: 4/29/2014 1:30 p.m. - State Capitol Room 437 ASSEMBLY HUMAN SERVICES, STONE, Chair

Summary: Existing federal law, the Developmental Disabilities Assistance and Bill of Rights Act of 2000, provides federal funds to assist the state in planning, coordinating, monitoring, and evaluating services for persons with developmental disabilities and in establishing a system to protect and advocate the legal and civil rights of persons with developmental disabilities. This bill would revise the activities the council is authorized to do to include, among other things, encouraging and assisting in the establishment or strengthening of self-advocacy organizations led by individuals with developmental disabilities and appoint an authorized representative for persons with developmental disabilities, as specified. The bill would make additional changes relating to the activities of the council. This bill contains other related provisions and other existing laws.

Position Support

Priority : Letter

[AB 1626](#)

([Maienschein R](#)) Developmental services: habilitation. (Introduced: 2/10/2014 [enr](#) [html](#))

Status: 4/9/2014-In committee: Set, first hearing. Referred to APPR. suspense file.

Location: 4/9/2014-A. APPR. SUSPENSE FILE

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

Summary: Existing law, the Lanterman Developmental Disabilities Services Act, authorizes the State Department of Developmental Services to contract with regional centers to provide services and support to individuals with developmental disabilities. Existing law requires habilitation services to be provided to an adult who receives services for the developmentally disabled when he or she satisfies specified eligibility requirements. If a consumer is referred for vocational rehabilitation services and placed on a waiting list for certain reasons, the regional center is required to authorize appropriate services for the consumer until services can be provided by the vocational rehabilitation program. Existing law requires providers of individualized or group-supported employment services to be paid at an hourly rate of \$30.82, and requires an interim program provider to be paid a fee of \$360 or \$720, as specified. This bill would increase the hourly rate paid to providers of individualized and group-supported employment services to \$34.24, and increase the fees paid to interim program providers to \$400 and \$800, respectively.

Position Watch

Priority : Letter

[AB 1687](#)

([Conway R](#)) Persons with Developmental Disabilities Bill of Rights. (Amended: 3/26/2014 [enr](#) [html](#))

Status: 4/10/2014-Read second time. Ordered to third reading.

Location: 4/10/2014-A. THIRD READING

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

Calendar: 4/28/2014 #24 ASSEMBLY ASSEMBLY THIRD READING FILE

Summary: Existing law, the Lanterman Developmental Disabilities Services Act, requires the State Department of Developmental Services to contract with regional centers to provide fixed points of contact in the community for persons with developmental disabilities and their families, and to ensure that a person with developmental disabilities has access to the services and supports best suited to the person throughout his or her lifetime . Existing law states the intent of the Legislature that persons with developmental disabilities have certain rights, including a right to prompt medical care and treatment and a right to be free from harm , including abuse or neglect . Existing law grants specified rights to a person with developmental disabilities who has been admitted or committed to a state hospital, community care facility, or health facility , including the right to have access to individual storage space for private use and a right to see visitors each day. Existing law requires a developmental center to immediately report resident deaths and certain serious injuries, including a sexual assault, to the local law enforcement agency having jurisdiction over the city or county in which the developmental center is located. This bill would recast those rights as the Persons with Developmental Disabilities Bill of Rights. The bill would include, as a right to persons with developmental disabilities , the right to a prompt investigation of any alleged abuse against them .

Position Support

Priority : Letter

[AB 1688](#)

(Conway R) Developmental centers: crime. (Amended: 4/22/2014 [ca](#) [app](#))

Status: 4/23/2014-Re-referred to Com. on APPR.

Location: 4/23/2014-A. APPR.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law requires, upon the filing of a claim for reimbursement, a city, county, or superior court to be reimbursed for reasonable and necessary costs connected with state prisons or prisoners in connection with certain circumstances, including with any crime committed in a prison, with any hearing on any return of a writ of habeas corpus prosecuted by or on behalf of a prisoner, or with any costs incurred by a coroner in connection with the death of a prisoner. This bill would similarly require that, upon the filing of a claim for reimbursement, a city or county be reimbursed for reasonable and necessary costs related to the investigation or prosecution of a crime committed by a developmental center employee against a developmental center resident. This bill contains other related provisions and other existing laws.

Position Watch

Priority :

[AB 1753](#)

(Holden D) Developmental services: regional centers: vendorization. (Introduced: 2/14/2014 [ca](#) [hum](#))

Status: 4/8/2014-In committee: Set, first hearing. Hearing canceled at the request of author.

Location: 2/27/2014-A. HUM. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is required to contract with regional centers to provide services and supports to individuals with developmental disabilities and their families. The services and supports to be provided by a regional center to a consumer are contained in an individual program plan (IPP) or individual family service plan (IFSP), developed in accordance with prescribed requirements. Existing law authorizes a regional center to purchase, pursuant to vendorization or a contract, services or supports for a consumer from an individual or agency that the regional center and consumer, or when appropriate, other specified persons, determines will best accomplish all or any part of that consumer's program plan. This bill would, if a consumer, or his or her parents, legal guardian, conservator, or authorized representative, requests that a service specified in the consumer's individual program plan be provided by a service vendor that has been vendored by another regional center, authorize the service vendor to provide services to the consumer under the same contractual terms as the vendoring regional center if certain requirements are satisfied, including that the service vendor is in good standing with the vendoring regional center and that the service provider provides services at no additional costs to the consumer or the consumer's regional center. This bill contains other related provisions and other existing laws.

Position Watch

Priority :

[AB 1900](#)

(Quirk D) Victims of sex crimes: testimony: video recording. (Amended: 3/27/2014 [off line](#))
 Status: 4/24/2014-In Senate. Read first time. To Com. on RLS. for assignment.
 Location: 4/24/2014-S. RLS.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chapterec
Dead	1st House				2nd House				Conc.			

Summary: Existing law provides that when a defendant has been charged with certain sex crimes, including rape and sodomy, and the victim is a person 15 years of age or less or is developmentally disabled as a result of an intellectual disability, when the defendant has been charged with spousal rape or corporal injury resulting in a traumatic condition upon certain persons, or when the defendant is charged with certain sex crimes, including rape and sodomy, that are committed with or upon a person with a disability, the prosecution may apply for an order that the victim's testimony at the preliminary hearing be recorded and preserved on videotape. This bill would allow a court to use any means of video recording to comply with these recording and preservation requirements. This bill contains other existing laws.

Position Watch

Priority :

[AB 2041](#)

(Jones R) Developmental services: regional centers: behavioral health treatment. (Amended: 4/22/2014 [off line](#))
 Status: 4/23/2014-Read second time. Ordered to third reading.
 Location: 4/23/2014-A. THIRD READING

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chapterec
Dead	1st House				2nd House				Conc.			

Calendar: 4/28/2014 #44 ASSEMBLY ASSEMBLY THIRD READING FILE

Summary: The Lanterman Developmental Disabilities Services Act requires the State Department of Developmental Services to enter into contracts with private nonprofit corporations to operate regional centers for the provision of community services and supports for persons with developmental disabilities and their families. Regulations adopted under that act require a regional center to classify a vendor of services provided by the regional center as a behavior management consultant or behavior management assistant if the vendor designs or implements behavior management intervention services, possesses specified experience in designing or implementing those services, and meets other specified licensure and education requirements. This bill would require that a regional center classify a vendor as a behavior management consultant or behavior management assistant if the vendor designs or implements behavioral health treatment, has a specified amount of experience in designing or implementing that treatment, and meets other licensure and education requirements. This bill contains other related provisions and other existing laws.

Position Watch

Priority :

[AB 2299](#)

(Nazarian D) Developmental services: health insurance copayments. (Amended: 3/28/2014 [off line](#))
 Status: 4/3/2014-Re-referred to Com. on HUM. S. pursuant to Assembly Rule 96.
 Location: 4/3/2014-A. HUM. S.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chapterec
Dead	1st House				2nd House				Conc.			

Calendar: 4/29/2014 1:30 p.m. - State Capitol Room 437 ASSEMBLY HUMAN SERVICES, STONE, Chair
 Summary:

The Lanterman Developmental Disabilities Services Act authorizes the State Department of Developmental Services to contract with regional centers to provide services and supports to individuals with developmental disabilities. Under existing law, the regional centers purchase needed services for individuals with developmental disabilities through approved service providers or arrange for their provision through other publicly funded agencies. The services and supports to be provided to a regional center consumer are contained in an individual program plan or individualized family service plan, developed in accordance with prescribed requirements. Existing law authorizes a regional center to pay any applicable copayment or

coinsurance for a service or support required by a consumer's individual program plan if the service is paid for by the health care service plan or health insurance policy of the consumer or his or her parent, guardian, or caregiver and, among other conditions, the family or the consumer, as applicable, has an annual gross income that does not exceed 400% of the federal poverty level. Existing law prohibits a regional center from paying health care service plan or health insurance policy deductibles.

This bill would delete that prohibition against payment of deductibles and would require a regional center, without regard to the family's or consumer's annual gross income, to pay any applicable copayment, coinsurance, or deductible for a service or support required by a consumer's individual program plan if the support or service is paid for by the health care service plan or health insurance policy of the consumer or his or her parent, guardian, or caregiver.

Position Watch

Priority : Letter

[AB 2349](#)

(Yamada D) Developmental services: Sonoma Developmental Center. (Amended: 3/28/2014 [am](#))

Status: 4/1/2014-Re-referred to Com. on HUM. S.

Location: 4/1/2014-A. HUM. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Calendar: 4/29/2014 1:30 p.m. - State Capitol Room 437 ASSEMBLY HUMAN SERVICES, STONE, Chair
Summary:

Existing law establishes the State Department of Developmental Services and sets forth its duties and responsibilities, including, but not limited to, administration and oversight of the state developmental centers, including the Sonoma Developmental Center, and programs relating to persons with developmental disabilities under the Lanterman Developmental Disabilities Services Act. Existing law requires the California Health and Human Services Agency to submit to the Legislature a master plan for the future of developmental centers by November 15, 2013, and to submit a report to the Legislature by January 10, 2014, regarding the ability of community resources to meet the specialized needs of residents now living in developmental centers.

This bill would establish the Office of Community Care Coordination within the State Department of Developmental Services, and would require the office to develop a plan, on or before January 1, 2016, that addresses, among other things, the operation of at least 2 acute crisis clinics, as specified. The bill would also require the office to identify which modifications are necessary to enable the Sonoma Developmental Center to operate as a placement of last resort and as an acute crisis clinic.

Position Support

Priority : Letter

[AB 2359](#)

(Rodriguez D) Services for the developmentally disabled: regional centers. (Introduced: 2/21/2014 [am](#))

Status: 3/10/2014-Referred to Com. on HUM. S.

Location: 3/10/2014-A. HUM. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Under existing law, the State Department of Developmental Services has jurisdiction over specified state hospitals that provide services to persons with developmental disabilities, also known as developmental centers. Existing law authorizes the department to operate any facility, provide its employees to assist in the operation of any facility, or provide other necessary services and support if, in the discretion of the department, it determines that the activity will assist in meeting the goal of the orderly closures of Agnews Developmental Center and Lanterman Developmental Center. Existing law authorizes the department to contract with any entity for the use of the department's employees to provide services in furtherance of the orderly closures of Agnews Developmental Center and Lanterman Developmental Center. This bill would require regional centers to ensure that any person or entity hired by, or contracted with, the regional center to provide services and support to individuals with developmental disabilities provide these services and support

in a manner consistent with all state and federal laws and regulations applicable to developmental centers. This bill contains other existing laws.

Position Watch

Priority : Letter

[AJR 36](#)

([Gonzalez D](#)) Special Minimum Wage Certificate Program. (Amended: 3/25/2014 [ca](#) [html](#))

Status: 4/24/2014-From committee: Be adopted. Ordered to third reading. (Ayes 5. Noes 0.) (April 23).

Location: 4/24/2014-A. THIRD READING

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House							

Calendar: 4/28/2014 #51 ASSEMBLY ASSEMBLY THIRD READING FILE

Summary: This measure would urge the United States Congress to phase out the use of the Special Minimum Wage Certificate provision and eventually repeal Section 14(c) of the 1938 Fair Labor Standards Act.

Position Support

Priority : Letter

[SB 231](#)

([Correa D](#)) Bullying: California Bullying Prevention Clearinghouse. (Amended: 8/5/2013 [ca](#) [html](#))

Status: 8/30/2013-Failed Deadline pursuant to Rule 61(a)(11). (Last location was APPR. SUSPENSE FILE on 8/14/2013)

Location: 8/30/2013-A. 2 YEAR

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House							

Summary: Existing law defines "bullying" as any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, as defined, and including one or more acts of sexual harassment, threats, or intimidation, directed against school district personnel or pupils, committed by a pupil or a group of pupils, that would cause a reasonable pupil, as defined, to be in fear of harm to his or her person or property, to experience a substantially detrimental effect on his or her physical or mental health, to experience substantial interference with his or her academic performance, or to experience substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by a school. This bill would enact the Michael Joseph Berry Peer Abuse Prevention and Awareness Act of 2013, pursuant to which the California Bullying Prevention Clearinghouse would be established, to be administered by the State Department of Education. The bill would require the Superintendent of Public Instruction to appoint members to a clearinghouse, California Bullying Prevention Advisory Council which would include individuals who have experience in specified areas, including, among others, hotline telephone services, social media, and behavioral health services. This bill contains other related provisions.

Position Watch

Priority :

[SB 391](#)

([DeSaulnier D](#)) California Homes and Jobs Act of 2013. (Amended: 8/8/2013 [ca](#) [html](#))

Status: 8/30/2013-Set, first hearing. Referred to APPR. suspense file. Hearing postponed by committee.

Location: 8/30/2013-A. APPR. SUSPENSE FILE

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House							

Summary: Under existing law, there are programs providing assistance for, among other things, emergency housing, multifamily housing, farmworker housing, home ownership for very low and low-income households, and downpayment assistance for first-time homebuyers. Existing law also authorizes the issuance of bonds in specified amounts pursuant to the State General Obligation Bond Law. Existing law requires that proceeds from the sale of these bonds be used to finance various existing housing programs, capital outlay related to infill development, brownfield cleanup that promotes infill development, and housing-related parks. This bill would enact the California Homes and Jobs Act of 2013. The bill would make legislative findings and

declarations relating to the need for establishing permanent, ongoing sources of funding dedicated to affordable housing development. The bill would impose a fee, except as provided, of \$75 to be paid at the time of the recording of every real estate instrument, paper, or notice required or permitted by law to be recorded. By imposing new duties on counties with respect to the imposition of the recording fee, the bill would create a state-mandated local program. The bill would require that revenues from this fee be sent quarterly to the Department of Housing and Community Development for deposit in the California Homes and Jobs Trust Fund, which the bill would create within the State Treasury. The bill would provide that moneys in the fund may be expended for supporting affordable housing, administering housing programs, and the cost of periodic audits, as specified. The bill would impose certain auditing and reporting requirements. This bill contains other related provisions and other existing laws.

Position Support

Priority : Letter

SB 577

([Pavley D](#)) Autism and other developmental disabilities: employment. (Amended: 1/6/2014 [see bill](#))

Status: 4/24/2014-Referred to Com. on HUM. S.

Location: 4/24/2014-A. HUM. S.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

Summary: The Lanterman Developmental Disabilities Services Act authorizes the State Department of Developmental Services to contract with regional centers to provide services and support to individuals with developmental disabilities, including autism. Existing law governs the habilitation services provided for adult consumers of regional centers, including work activity programs, as described, and establishes an hourly rate for supported employment services provided to consumers receiving individualized services. This bill would require the development and semiannual review of a plan, as specified, if community-based prevocational services are determined to be a necessary step to achieve a supported employment outcome. The bill would establish an hourly rate for community-based prevocational services of \$40 per hour for a maximum of 75 hours per calendar quarter for all services identified and provided in the plan. This bill contains other related provisions.

Position Support

Priority : Letter & Hearing Testimony

SB 579

([Berryhill R](#)) Developmental services: Commission on Oversight Efficiency and Quality Enhancement Models. (Amended: 1/27/2014 [see bill](#))

Status: 4/24/2014-Referred to Com. on HUM. S.

Location: 4/24/2014-A. HUM. S.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

Summary: The Lanterman Developmental Disabilities Services Act authorizes the State Department of Developmental Services to contract with regional centers to provide services and supports to individuals with developmental disabilities. The services and supports to be provided to a regional center consumer are contained in an individual program plan, developed in accordance with prescribed requirements. This bill would establish the Commission on Oversight Efficiency and Quality Enhancement Models to investigate methods of implementing a unified and consistent oversight and quality enhancement process that ensures the welfare, community participation, health, and safety of individuals with developmental disabilities who are served in programs licensed by the Community Care Licensing Division of the State Department of Social Services. The bill would require the process to also enhance accountability and quality review processes for the services directly provided by regional centers. The bill would require the Governor, Senate Committee on Rules, and the Speaker of the Assembly to appoint members to serve on the commission, as prescribed. The bill would require the State Department of Developmental Services to provide staff support to the commission. This bill contains other related provisions and other existing laws.

Position Support if Amended

Priority : Letter

(Lara D) Crimes: persons with developmental and intellectual disabilities. (Amended: 1/27/2014 [add](#) [edit](#))

Status: 1/28/2014-In Assembly. Read first time. Held at Desk.

Location: 1/28/2014-A. DESK

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law requires that, in scheduling a trial date at an arraignment in superior court involving any of specified offenses, including sexual assault, reasonable efforts be made to avoid setting that trial, when that case is assigned to a particular prosecuting attorney, on the same day that another case is set for trial involving the same prosecuting attorney. Existing law also requires that continuances be granted only upon a showing of good cause and defines good cause to include specified cases, including cases of sexual abuse, sexual assault, and domestic violence. This bill would make those provisions applicable to a case involving a crime against a person with a developmental disability. This bill contains other related provisions and other existing laws.

Position Watch

Priority :

[SB 840](#)

(Lara D) Educational equity: local educational agency policies against bullying. (Amended: 3/27/2014 [add](#) [edit](#))

Status: 4/7/2014-Placed on APPR. suspense file.

Location: 4/7/2014-S. APPR. SUSPENSE FILE

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law, the Safe Place to Learn Act, requires the State Department of Education to assess whether local educational agencies have taken certain actions related to educational equity, including adopting a policy that prohibits discrimination, harassment, intimidation, and bullying based on specified characteristics such as disability, gender, gender identity, race, or sexual orientation, or association with a person or group with one or more of the specified characteristics and adopting a process for receiving and investigating complaints of discrimination, harassment, intimidation, and bullying based on the specified characteristics. This bill would require each local educational agency to develop and implement a policy against bullying, as specified, which includes, at a minimum, a procedure for referring victims of bullying to counseling, mental health, or other health services as appropriate; mandatory training for certificated employees on the prevention, and addressing, of bullying; and a procedure for the documentation of all incidents of bullying that take place within the local educational agency as well as the responsive actions taken, if any. The bill would require the local educational agency to report the documentation of the bullying incidents to the department, as provided. This bill contains other related provisions and other existing laws.

Position Watch

Priority : Letter

[SB 922](#)

(Knight R) Sex offenses: disabled victims. (Amended: 4/9/2014 [add](#) [edit](#))

Status: 4/17/2014-Set for hearing April 29.

Location: 4/9/2014-S. PUB. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Calendar: 4/29/2014 9 a.m. - John L. Burton Hearing Room (4203) SENATE PUBLIC SAFETY, HANCOCK, Chair

Summary: (1) Under existing law, a person who commits rape, or an act of sodomy, oral copulation, or sexual penetration, against a person incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, where that fact is known or reasonably should be known by the person committing the act, shall be punished by imprisonment in the state prison for 3, 6, or 8 years. This bill would instead make these crimes punishable by imprisonment in the state prison for 9, 11, or 13 years. This bill contains other related provisions and other existing laws.

Position Watch

Priority : Letter

[SB 935](#)

([Leno D](#)) Minimum wage: annual adjustment. (Amended: 3/18/2014 [pdf](#) [html](#))

Status: 4/7/2014-Placed on APPR. suspense file.

Location: 4/7/2014-S. APPR. SUSPENSE FILE

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law requires that, on and after July 1, 2014, the minimum wage for all industries be not less than \$9 per hour. Existing law further increases the minimum wage, on and after January 1, 2016, to not less than \$10 per hour. This bill would increase the minimum wage, on and after January 1, 2015, to not less than \$11 per hour, on and after January 1, 2016, to not less than \$12 per hour, and on and after January 1, 2017, to not less than \$13 per hour. The bill would require the automatic adjustment of the minimum wage annually thereafter, to maintain employee purchasing power diminished by the rate of inflation during the previous year. The adjustment would be calculated using the California Consumer Price Index, as specified. The bill would prohibit the Industrial Welfare Commission (IWC) from reducing the minimum wage and from adjusting the minimum wage if the average percentage of inflation for the previous year was negative. The bill would require the IWC to publicize the automatically adjusted minimum wage. This bill contains other related provisions.

Position Watch

Priority : Letter

[SB 1046](#)

([Beall D](#)) Insurance: mental illness: developmental disabilities: coverage: penalties.

(Amended: 4/8/2014 [pdf](#) [html](#))

Status: 4/11/2014-Set for hearing April 28.

Location: 4/8/2014-S. APPR.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Calendar: 4/28/2014 10 a.m. - John L. Burton Hearing Room (4203) SENATE APPROPRIATIONS, DE LEÓN, Chair

Summary: Existing law requires that health insurance policies provide coverage for the diagnosis and medically necessary treatment of severe mental illnesses of a person of any age and of serious emotional disturbances of a child, under the same terms and conditions applied to other medical conditions, as specified. Existing law requires health insurance policies to provide benefits for specified conditions, including coverage for behavioral health treatment, as defined, for pervasive developmental disorder or autism, as specified. This bill would give the Insurance Commissioner the authority to assess administrative penalties for any violations of the above provisions, including any rules or orders adopted or issued based on violations of those provisions. The bill would also give the commissioner authority to assess a penalty for each patient harmed by a violation of the above provisions, including any rules or orders adopted or issued based on violations of those provisions, as a separate and distinct violation. The penalties would not exceed \$2,500 for each violation, or for an ongoing and continuous violation, the penalty would not exceed \$2,500 per day for as long as the violation continues.

Position Watch

Priority :

[SB 1093](#)

([Liu D](#)) Developmental services: regional centers: culturally and linguistically competent services.

(Amended: 4/24/2014 [pdf](#) [html](#))

Status: 4/24/2014-Read second time and amended. Re-referred to Com. on APPR.

Location: 4/24/2014-S. APPR.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: The Lanterman Developmental Disabilities Services Act requires the State Department of Developmental Services to contract with regional centers to provide services and supports to individuals with

developmental disabilities. The services and supports to be provided to a regional center consumer, which include services and supports that are directed toward the achievement and maintenance of an independent productive, and normal life for the consumer such as daily living skills training, are contained in an individual program plan or individualized family service plan developed in accordance with prescribed requirements. This bill would require that independent living skills services be available to all adult consumers who live in the home of a parent, relative, or other person, or who live independently. This bill contains other related provisions and other existing laws.

Position Watch

Priority :

[SB 1109](#)

(Hueso D) State contracts: integrated employment: persons with disabilities. (Amended: 3/27/2014 [edit](#) [html](#))

Status: 4/22/2014-Set, first hearing. Failed passage in committee. Reconsideration granted.

Location: 4/3/2014-S. G.O.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

Summary: (1) Existing law establishes specified requirements applicable to the acquisition of services by state agencies. Existing law establishes a minimum wage for all industries but permits mentally or physically handicapped persons to be employed at less than the minimum wage, under specified circumstances. This bill would remove the authorization of a successful bidder to use lower minimum wage exemptions for specified contracts entered into by a state agency for services rendered to the state. This bill contains other related provisions and other existing laws.

Position Watch

Priority : Letter

[SB 1127](#)

(Torres D) Emergency services: individuals with developmental disabilities and cognitive impairments. (Amended: 4/7/2014 [edit](#) [html](#))

Status: 4/23/2014-From committee: Do pass and re-refer to Com. on APPR. (Ayes 4. Noes 0.) (April 22). Re-referred to Com. on APPR.

Location: 4/23/2014-S. APPR.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

Calendar: 5/5/2014 1 p.m. or upon adjournment of session John L. Burton Hearing Room (4203) SENATE APPROPRIATIONS, DE LEÓN, Chair

Summary: Existing law authorizes a law enforcement agency, if a person is reported missing to the law enforcement agency, and that agency determines that certain requirements are met, including, among others, that the missing person is 65 years of age or older, to request the California Highway Patrol to activate a Silver Alert, the notification system designed to issue and coordinate these alerts. Existing law requires the California Highway Patrol to activate a Silver Alert if it concurs with the law enforcement agency that those requirements are met, and to take certain actions, upon activation of a Silver Alert, to assist the agency investigating the disappearance. This bill would include a missing person who is developmentally disabled or cognitively impaired among the persons who may be the subject of a Silver Alert.

Position Watch

Priority :

[SB 1396](#)

(Hancock D) School climate: multitiered intervention and support program. (Amended: 4/23/2014 [edit](#) [html](#))

Status: 4/23/2014-From committee with author's amendments. Read second time and amended. Re-referred to Com. on APPR.

Location: 4/23/2014-S. APPR.

2Year	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
Dead	1st House				2nd House				Conc.			

Calendar: 4/28/2014 10 a.m. - John L. Burton Hearing Room (4203) SENATE APPROPRIATIONS, DE LEÓN, Chair

Summary: Existing law establishes a system of public elementary and secondary schools in this state, and authorizes local educational agencies throughout the state to provide instruction to pupils. This bill would establish a multitiered intervention and support program. The bill, to the extent that one-time funding is made available in the Budget Act of 2014, would require the State Department of Education to apportion funds to a designated county office of education, selected from applicant county offices of education, that would be the fiduciary agent for the program. The bill would require the designated county office of education to consult with specified organizations and target the funding towards a statewide professional development effort that would provide training in multitiered intervention and support to school personnel. This bill contains other related provisions.

Position Watch

Priority :

[SB 1428](#)

(Evans D) Sonoma Developmental Center: land use. (Amended: 4/21/2014 [am](#) [num](#))

Status: 4/21/2014-Read second time and amended. Re-referred to Com. on APPR.

Location: 4/21/2014-S. APPR.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chapters
	1st House				2nd House							

Calendar: 4/28/2014 10 a.m. - John L. Burton Hearing Room (4203) SENATE APPROPRIATIONS, DE LEÓN, Chair

Summary: Existing law vests in the State Department of Developmental Services jurisdiction over state hospitals referred to as developmental centers, including the Sonoma Developmental Center, for providing residential care to persons with developmental disabilities. Under existing law, if the department proposes the closure of a state developmental center, it is required to submit to the Legislature a detailed plan that contains certain information, including, among other things, a description of the land and buildings affected and existing lease arrangements at the developmental center. This bill would require that, prior to the development of any plan for, or implementation of, any sale, lease, transfer, or major change of use of any portion of the Sonoma Developmental Center, the department and the Department of General Services confer and cooperate with public and private entities in the development of an improvement and redevelopment plan for the center. The bill would authorize the plan to contain specified elements, including plans for the development of new or improved public or private core resident care facilities on the site, the permanent protection, maintenance, operation, and potential expansion of the wildlife habitat corridor through the property connecting Sonoma Mountain and the Mayacamas Mountain Range, the creation of public recreational facilities, and potential expansion of water supply facilities consistent with natural resource protection.

Position Watch

Priority :

[SCA 10](#)

(Wolk D) Legislative procedure. (Introduced: 1/22/2013 [int](#) [num](#))

Status: 1/31/2013-Referred to Com. on RLS.

Location: 1/31/2013-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chapters
	1st House				2nd House							

Summary: The California Constitution prohibits a bill other than the Budget Bill from being heard or acted on by a committee or either house of the Legislature until the 31st day after the bill is introduced, unless the house dispenses with this requirement by rollcall vote entered in the journal, 3/4 of the membership concurring. This measure would add an additional exception to this 31-day waiting period by authorizing a committee to hear or act on a bill if the bill, in the form to be considered by the committee, has been in print and published on the Internet for at least 15 days. This bill contains other related provisions and other existing laws.

Position Watch

Priority :

Total Measures: 28

Total Tracking Forms: 23

SB 1396 (Hancock):

School Climate: Multitiered Intervention and Supports Program

Last updated: April 16, 2014

PURPOSE OF THE BILL

School districts face numerous challenges in addressing school safety and mental health issues on their campuses. This bill focuses on social-emotional development that will help schools respond to and prevent negative student behavior. SB 1396 will help fund multitiered intervention and support programs like Positive Behavior Intervention Supports (PBIS) which are frameworks that will assist schools in improving behavioral outcomes while increasing academic achievement for all students.

Specifically, SB 1396 will provide direct funding to school districts and county offices of education that will allow for broad exposure to these frameworks through all of the following:

- Regional conferences on implementation and training of district staff.
- Stipends for release time for school personnel.
- Development of and dissemination of PBIS-related best practices.

BACKGROUND

Positive Behavior Intervention & Supports (PBIS) is a multi-tiered prevention and intervention framework to assist schools in achieving academic goals and behavioral outcomes for all students. PBIS is a decision-making framework that guides selection, integration and implementation of the best evidence-based academic and behavioral practices for improving student outcomes.

PROBLEM & NEED FOR THE BILL

Recent public policy actions related to school safety and mental health have focused on zero tolerance approaches and have limited school district efforts to intervene in a timely manner with the appropriate steps for each student. Districts must be able to establish systems for promoting social-emotional development that help to respond to and prevent negative behaviors, while also reengaging disconnected students.

Within the body of these frameworks and PBIS is the concept of restorative justice. It is an approach to resolving conflicts and behavioral problems that is grounded in mutual respect, positive relationships, and productive accountability. A restorative justice approach

enables school personnel to intervene more effectively without compromising accountability. There is a growing body of data that shows that school-based PBIS practices reduce violence and school suspensions.

With the passage of the Local Control Funding Formula (LCFF) every district is now able to prioritize strategies like PBIS as a part of their Local Control Accountability Plan. Unfortunately, all too many districts are unaware of the PBIS system and thus are not aware of the benefits or strategies needed to implement positive school climate approaches.

It is critical to link mental health strategies and outcomes to the priorities established in the local district Local Control and Accountability Plan (LCAP). The PBIS multi-tier support system framework addresses at least 5 critical areas of the LCAP. These include:

- 1) academic outcomes;
- 2) Common core State Standards;
- 3) school culture and climate;
- 4) parent involvement; and
- 5) student engagement.

WHAT THIS BILL WOULD DO

SB 1396 would first establish multitiered intervention and supports programs, such as the Schoolwide PBIS Program.

Secondly, this bill would require the State Department of Education to allocate funds to a designated county office of education, selected from applicant county offices of education that would be the fiduciary agent for the program.

Thirdly, this bill would require the designated county office of education to consult with specified organizations and target the funding towards a statewide professional development effort that would provide training in schoolwide positive behavior and support to school personnel.

Fourthly, the bill would require the Legislative Analyst's Office to review the impacts of this professional development effort and report to the Governor and the Legislature by June 30, 2016, on specified aspects of the program.

SUPPORT

California Association of School Psychologists (sponsor)
American Civil Liberties Union
Berkley Unified School District
California School-Based Health Alliance
Central Unified School District
Children Now
Children's Defense Fund
Labor/Community Strategy Center
Laguna Beach Unified School District
Public Counsel
The Latina Center

BILL STATUS

Will be heard in Senate Appropriations on April 28th.

AMENDED IN SENATE APRIL 23, 2014

AMENDED IN SENATE APRIL 9, 2014

SENATE BILL

No. 1396

Introduced by Senator Hancock

February 21, 2014

An act to add Chapter 19 (commencing with Section 53330) to Part 28 of Division 4 of Title 2 of the Education Code, relating to school climate.

LEGISLATIVE COUNSEL'S DIGEST

SB 1396, as amended, Hancock. School climate: multitiered intervention and support program.

Existing law establishes a system of public elementary and secondary schools in this state, and authorizes local educational agencies throughout the state to provide instruction to pupils.

This bill would establish a multitiered intervention and support program. The bill, to the extent that one-time funding is made available in the Budget Act of 2014, would require the State Department of Education to apportion funds to a designated county office of education, selected from applicant county offices of education, that would be the fiduciary agent for the program. The bill would require the designated county office of education to consult with specified organizations and target the funding towards a statewide professional development effort that would provide training in multitiered intervention and support to school personnel.

The bill would require the Legislative Analyst's Office to review the impacts of this professional development effort and report to the Governor, the State Department of Education, and the Legislature by June 30, 2017, on specified aspects of the program.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) In many school districts, local policies have addressed safety
4 and mental health issues in schools with ad hoc and piecemeal
5 strategies. This is borne out by the very narrow federal and state
6 laws related to pupil suspension and expulsion that produced
7 reactive discipline policies and increased pupil exclusion from
8 school. These practices have resulted in disproportionality in
9 discipline practices, as reflected in the high number of suspensions
10 and expulsions among African American and Latino pupils in
11 California.

12 (b) Restorative justice or restorative practices is a set of
13 principles and practices grounded in the values of showing respect,
14 taking responsibility, and strengthening relationships. Restorative
15 justice focuses on repair of harm and prevention of reoccurrence.
16 Restorative practices, applied in a schoolwide context, are used to
17 build a sense of school community and resolve conflict by repairing
18 harm and restoring positive relationships where pupils and
19 educators work together to set academic goals, develop core values
20 for the classroom, and resolve conflicts. Restorative practices can
21 be incorporated in the tiered framework of schoolwide positive
22 behavior interventions and supports.

23 (c) Recent statistics indicate that 20 percent of schoolage youth
24 experience a functional or significant behavior or mental health
25 disorder. In contrast, less than 1 percent of pupils are identified to
26 receive mental health services through the special education
27 classification of emotional disturbance. These numbers suggest a
28 significant gap in the need for school-based prevention and
29 intervention behavioral health services. Schoolwide Positive
30 Behavior Intervention and Support (SW-PBIS) can fill this gap
31 by providing a comprehensive and collaborative prevention and
32 intervention framework for schools to improve academic and
33 behavioral outcomes for all pupils. Recent research from Orange
34 County has shown that in districts where SW-PBIS has been
35 implemented there has been a 26-percent drop in in-school

1 suspensions, a 55-percent drop in out-of-school suspensions, and
2 a 30-percent drop in expulsions.

3 (d) In order to ensure that all pupils flourish academically,
4 districts must establish equitable discipline practices and behavioral
5 interventions that promote positive social-emotional development
6 and that prevent and respond to negative behaviors in order to
7 reengage disconnected pupils. School psychologists play a critical
8 role in implementing school-based educationally related counseling
9 services and positive behavior systems and supports that create
10 and reinforce positive school cultures of achievement for all pupils,
11 including those at risk of academic failure.

12 (e) The local control funding formula has been passed in an
13 effort to reform school finance and to direct funding directly to
14 at-risk pupil populations as outlined in Section 42238.07 of the
15 Education Code. This section states that the regulations shall
16 require a school district “to increase or improve services for
17 unduplicated pupils.” Research shows that efforts to improve
18 school climate, safety, and learning are not separate endeavors.
19 They must be designed, funded, and implemented as a
20 comprehensive schoolwide approach. School districts must work
21 to ensure through their local control and accountability plans that
22 pupils have access to universal, targeted, and individualized
23 psychological, behavioral, and counseling services and support
24 that will increase their chances for academic improvement.

25 (f) SW-PBIS is a multitiered framework for creating positive
26 school cultures. SW-PBIS is a decisionmaking framework that
27 guides selection, integration, and implementation of the best
28 evidence-based academic and behavioral practices for improving
29 important academic and behavior outcomes for all pupils. The
30 SW-PBIS approach requires the implementation of preventative
31 and proactive approaches to discipline and positive discipline
32 methods. In doing so, SW-PBIS changes the belief systems and
33 behavior of school staffs, pupils, and the community, resulting in
34 positive, productive citizens, and safer schools.

35 (g) SW-PBIS can support important local control and
36 accountability plan priority areas by providing local schools and
37 districts with an evidence-based framework to produce targeted
38 pupil behavioral and academic outcomes. SW-PBIS provides an
39 operational framework for achieving these outcomes.

- 1 (h) SW–PBIS fosters local control for school climate, academics,
2 and behavior. SW–PBIS provides an operational framework and
3 a set of sustainable schoolwide practices for achieving these
4 outcomes. The schoolwide practices are research based, but are
5 developed and implemented by the local school team of teachers,
6 parents, administrators, school psychologists, school counselors,
7 and pupils to reflect the culture and values of their schools.
- 8 (i) SW–PBIS has national support and has been defined,
9 described, and researched since its introduction in the
10 reauthorization of the Individuals with Disabilities Education Act
11 of 1997. SW–PBIS research and training is supported by the Office
12 of Special Education Programs (OSEP), United States Department
13 of Education, through the OSEP Technical Assistance Center.
14 School psychologists have been leaders in SW–PBIS professional
15 development and systems implementation in schools and districts
16 throughout the state.
- 17 (j) (1) SW–PBIS emphasizes four integrated elements:
18 (A) Data for decisionmaking.
19 (B) Measurable outcomes supported and evaluated by data.
20 (C) Practices with evidence that these outcomes are achievable.
21 (D) Systems that efficiently and effectively support
22 implementation of these practices.
- 23 (2) These four elements are guided by six core principles, as
24 follows:
25 (A) Develop a continuum of scientifically based behavior and
26 academic interventions and supports.
27 (B) Use data to make decisions and solve problems.
28 (C) Arrange the environment to prevent the development and
29 occurrence of problem behavior; increase supervision where
30 needed.
31 (D) All school staff teach and encourage prosocial skills and
32 behaviors in all settings on campus, and before and after school.
33 (E) Implement evidence-based behavioral practices with fidelity
34 and accountability.
35 (F) Screen universally and monitor pupil performance and
36 progress continuously.
- 37 (k) Schools that have established and maintained SW–PBIS
38 systems with integrity have teaching and learning environments
39 that are less reactive, aversive, punitive, dangerous, and
40 exclusionary, are more engaging, responsive, preventive,

1 productive, and participatory, address classroom management and
2 disciplinary issues such as attendance, cooperation, participation,
3 and meeting positive expectations, improve support for pupils
4 whose behavior requires more specialized or intensive assistance
5 for emotional and behavioral disorders and mental health issues,
6 and maximize academic engagement and achievement for all
7 pupils.

8 SEC. 2. Chapter 19 (commencing with Section 53330) is added
9 to Part 28 of Division 4 of Title 2 of the Education Code, to read:

10
11 CHAPTER 19. MULTITIERED INTERVENTION AND SUPPORT
12

13 53330. (a) To the extent that one-time funding is made
14 available in the Budget Act of 2014, the department shall apportion
15 funds to a designated county office of education to be the fiduciary
16 agent for a multitiered intervention and support program that
17 includes, but is not limited to, the Schoolwide Positive Behavior
18 Intervention and Support program. The designated county office
19 of education shall be chosen by the Superintendent from county
20 offices that apply for designation under this chapter. The designated
21 county office of education shall be in charge of establishing specific
22 professional development activities that will lead to statewide
23 professional development support structures allowing for the
24 development and expansion of multitiered intervention and support
25 efforts, *including the incorporation of restorative practices*, in
26 each region of the state.

27 (b) This professional development and outreach effort shall
28 build upon existing statewide organizations, networks, and regional
29 organizations that are providing services related to multitiered
30 intervention and support and other mental health approaches. The
31 goal would be to organize multitiered intervention and support
32 trainings and resources to be disseminated on a regional basis.
33 These trainings, associated materials, and research shall educate
34 participants on how to have multitiered intervention and support
35 program support local control and accountability plan strategic
36 goals in alignment with a multitiered support system framework.

37 (c) The designated county office of education shall consult with
38 the Regional K–12 Student Mental Health Initiative, the National
39 Alliance on Mental Health Illness, the California Technical
40 Assistance Center on Schoolwide Positive Behavior Intervention

1 and Support, the California County Superintendents Educational
2 Services Association, the California Mental Health Directors
3 Association, the United Advocates for Children and Families, and
4 other nonprofit agencies throughout the state. The designated
5 county office of education shall also select an advisory committee
6 made up of stakeholders and mental health professionals who have
7 participated in the development and expansion of multitiered
8 intervention and support programs to assist in the planning and
9 implementation of this project.

10 (d) The designated county office of education, in the
11 implementation of this chapter, shall consider and include, as
12 appropriate, available resources for multitiered intervention and
13 support.

14 (e) Within the context of a state-level plan, funding shall be
15 targeted to all of the following critical activities:

16 (1) Explaining the importance of linking multitiered intervention
17 and support efforts with local control funding formula planning.

18 (2) Creating broad exposure to multitiered intervention and
19 support, which would include pamphlets, videos, Internet Web
20 site creation, webinars, and newsletters.

21 (3) Creating regional conferences on multitiered intervention
22 and support implementation that would provide free training for
23 teachers, school psychologists, and administrators.

24 (4) Establishing stipends for release time for school personnel
25 attending these workshops.

26 (5) Developing best practices of current district level multitiered
27 intervention and support systems based on the analysis pursuant
28 to subdivision (f) and ensure that these best practices are widely
29 disseminated.

30 (6) Establishing a cohort of trainers that can be available to
31 work directly with local school districts seeking to implement
32 multitiered intervention and support programs.

33 (7) Establishing a repository for the collection and dissemination
34 of multitiered intervention and support best practices.

35 (f) The designated county office of education, working in
36 cooperation with the Department of Finance, the State Department
37 of Education, and the Legislative Analyst, shall analyze the relevant
38 data on the success of multitiered intervention and support
39 programs at both the state and national levels, and shall establish
40 a set of best practices to be made available to school districts and

1 consortia of school districts to expand schoolwide multitiered
2 intervention and supports to address academic and behavioral
3 issues and to use as a foundation for the annual goals and state
4 priorities, such as pupil engagement and school climate, ~~to~~ *which*
5 *may* be included in local control and accountability plans.

6 (g) The Legislative Analyst's Office shall review the impacts
7 of this professional development effort and shall report to the
8 Governor, the State Department of Education, and the Legislature
9 by June 30, 2017, on the breadth and best practices of the training.

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SENATE COMMITTEE ON EDUCATION
Carol Liu, Chair
2013-2014 Regular Session

BILL NO: SB 1396
AUTHOR: Hancock
INTRODUCED: February 21, 2014
FISCAL COMM: Yes
URGENCY: No
HEARING DATE: April 2, 2014
CONSULTANT: Lynn Lorber

SUBJECT: Positive Behavior Intervention and Support program.

SUMMARY

This bill requires the California Department of Education to designate funds to a county office of education to establish professional development activities to support the development and expansion of Schoolwide Positive Behavior Intervention and Support program efforts.

BACKGROUND

Positive behavior interventions and supports

Current law:

- 1) Encourages schools, as comprehensive school safety plans are reviewed and updated, to include in school safety plans clear guidelines for the roles and responsibilities of mental health professionals, community intervention professionals, school counselors, school resource officers, and police officers on school campus, if the school district uses these people. The guidelines may include primary strategies to create and maintain a positive school climate, promote school safety, and increase pupil achievement, and prioritize mental health and intervention services, restorative and transformative justice programs, and positive behavior interventions and support. (Education Code § 32282.1)
- 2) Provides that corrective action other than out-of-school suspension includes study teams, guidance teams, resource panel teams, or other intervention-related teams that assess the behavior, and develop and implement individualized plans to address the behavior in partnership with the pupil and his or her parents. (EC § 48900.5)
- 3) Specific to students with exceptional needs, requires the individualized education program team shall consider the use of positive behavioral interventions and supports for students whose behavior impedes his or her learning. (EC § 56341.1)

Multi-tiered interventions

Many schools voluntarily follow models of tiered interventions to address student needs prior to imposing discipline or making referrals to special education. Models include Schoolwide

Positive Behavior Interventions and Supports, Response to Intervention and Positive Environments Network of Trainers. Typically, the base tier is a schoolwide approach involving instruction, school climate, etc. The middle tier is targeted to students who did not respond to the schoolwide efforts and involved more intense interventions such as tutoring. The top tier focuses on a smaller group of students who continue to need support and may include very intense and frequent services such as counseling.

The Student Success Team, formerly Student Study Team, is a positive schoolwide early identification and intervention process. Working as a team, the student, parent, teacher and school administrator identify the student's strengths and assets upon which an improvement plan can be designed. As a regular school process, the team intervenes with school and community support and an improvement plan that all team members agree to follow. Follow-up meetings are planned to provide a continuous casework management strategy to ensure the needs of students are met.

ANALYSIS

This bill requires the California Department of Education to designate funds to a county office of education to establish professional development activities to support the development and expansion of Schoolwide Positive Behavior Intervention and Support (PBIS) programs. Specifically, this bill:

- 1) Requires the CDE, to the extent one-time funding is available in the 2014 Budget, to apportion funds to a designated county office of education to be the fiduciary agent for the PBIS program. This bill requires the Superintendent of Public Instruction to select the designated county office from those that apply for such designation.
- 2) Requires the designated county office of education to be responsible for the establishment of specific professional development activities that will lead to statewide professional development support structures allowing for the development and expansion of PBIS efforts in each region of the state.
- 3) Requires this professional development and outreach effort build upon existing statewide and regional organizations, and networks that are providing services related to PBIS and other mental health approaches. This bill states that the goal is to organize PBIS trainings and resources to be disseminated on a regional basis. This bill requires trainings, associated materials, and research to educate participants on how to have PBIS support local control and accountability plan strategic goals in alignment with a multi-tiered support system framework.
- 4) Requires the designated county office of education to consult with the K-12 Student Mental Health Initiative, the National Alliance on Mental Health Illness, the California Technical Assistance Center on PBIS, the California County superintendents Educational Services Association, the California Mental Health Directors Association, the United Advocates for Children and Families, and other non-profit agencies throughout the state. This bill requires the designated county office to select an advisory committee consisting of stakeholders and mental health professionals who

have participated in the development and expansion of PBIS programs to assist in the planning and implementation of this project.

- 5) Requires funding to be targeted to all of the following activities, within the context of planning and implementation:
 - a) Explaining the importance of linking PBIS efforts with local control funding formula planning.
 - b) Creating broad exposure to PBIS, which includes pamphlets, videos, creation of websites, webinars and newsletters.
 - c) Creating regional conferences on PBIS implementation to provide free training for teachers, school psychologists, and administrators.
 - d) Establishing stipends for release time for school personnel to attend workshops.
 - e) Developing best practices of current district-level PBIS systems and ensure best practices are widely disseminated.
 - f) Establishing a cohort of trainers that can be available to work directly with local school districts seeking to implement PBIS.
 - g) Establishing a repository for the collection and dissemination of PBIS best practices.
- 6) Requires the designated county office of education, working in cooperation with the Department of Finance, California Department of Education, and Legislative Analyst, to analyze the relevant data on the success of PBIS at both the state and national levels, and establish a set of best practices to be made available to school districts and consortia of districts to expand current mental health programs and to use as the foundation of addressing school discipline issues including school violence, suspensions, expulsions, and bullying.
- 7) Requires the Legislative Analyst's Office to review the impacts of professional development and report to the Governor and Legislature by June 30, 2016, on the breadth and best practices of the training.
- 8) States legislative findings and declarations relative to the effect of positive behavior interventions on suspensions and expulsions, and academic engagement and achievement.

STAFF COMMENTS

- 1) How many schools currently implement? Many schools voluntarily follow models of tiered interventions to address student needs prior to imposing discipline or making

referrals to special education. Statewide data on the current implementation of such frameworks or programs is not collected.

- 2) Available information. The California Department of Education's (CDE) website includes an implementation and technical assistance guide for response to intervention, and information on multi-tiered systems of support. <http://www.cde.ca.gov/be/pn/im/documents/memo-ilsb-plsd-oct13item02.doc> The Positive Environments, Network of Trainers is a positive behavior initiative that disseminates through its website information and resources regarding the use of proactive positive strategies. <http://www.pent.ca.gov/> **Staff recommends an amendment** to require the consideration and inclusion, as appropriate, of resources that are currently available.
- 3) Other programs. This bill requires the establishment of professional development activities to support the development and expansion of Schoolwide Positive Behavior Intervention and Support programs. Other similar programs, frameworks, and approaches existing and are currently being implemented in schools. **Staff recommends an amendment** to broaden the scope of the bill to reference multi-tiered interventions and support programs, including but not limited to statewide positive interventions and supports, and response to intervention.
- 4) Expansion of current programs. This bill requires best practices to be made available to school districts to expand current mental health programs and to use as the foundation of addressing school discipline issues including school violence, suspensions, expulsions, and bullying. **Staff recommends an amendment** to strike reference to mental health and discipline, and instead reference the expansion of schoolwide multi-tiered interventions and supports to address academic and behavioral issues, and the ability to be used as a foundation for the annual goals and state priorities (such as student engagement and school climate) to be included in local control accountability plans.
- 5) Designated county office of education. This bill requires the Superintendent of Public Instruction (SPI) to select the designated county office of education from those that apply for such designation. This bill does not establish an application process nor guidance for the selection of the appropriate county office, thereby giving the SPI complete discretion to determine if the county office is capable of meeting the fiduciary responsibilities and other requirements of this bill.
- 6) Advisory committee. This bill requires the designated county office to select an advisory committee consisting of stakeholders and mental health professionals who have participated in the development and expansion of PBIS programs to assist in the planning and implementation of this project. This bill also requires the designated county office of education to work in cooperation with the Department of Finance, California Department of Education, and Legislative Analyst, to analyze the relevant data and establish a set of best practices. Is it necessary for the designated county office to consult with state agencies and also create an advisory committee of stakeholders, rather than one workgroup that includes all appropriate entities?

- 7) Report. This bill requires the Legislative Analyst's Office to review the impacts of professional development and report to the Governor and Legislature by June 30, 2016, on the breadth and best practices of the training. It is not clear that this deadline will give sufficient time for the professional development to be delivered and rooted, and is unlikely to be sufficient if professional development is not currently available. **Staff recommends an amendments** to push the report due date back to June 30, 2017, and require the report to also be submitted to the California Department of Education.
- 8) Restorative justice. The author wishes to amend this bill to include language relative to restorative justice and practices in the legislative findings and declarations, and specifically include the incorporation of restorative practices within schoolwide positive behavior interventions and support efforts.
- In findings and declarations: Restorative justice or restorative practices is a set of principles and practices grounded in the values of showing respect, taking responsibility, and strengthening relationships. Restorative justice focuses on repair of harm and prevention of re-occurrence. Restorative practices applies in a schoolwide context, is used to build a sense of school community and resolve conflict by repairing harm and restoring positive relationships where students and educators work together to set academic goals, develop core values for the classroom and resolve conflicts. Restorative practices can be incorporated in the tiered framework of schoolwide positive behavior interventions and supports.*
- On page 5, line 14, after "efforts" insert "including the incorporation of restorative practices."
- 9) Technical amendment. **Staff recommends an amendment** to clarify that best practices to be developed and disseminated are based on the analysis completed by the designated county office of education and specified state agencies. On page 6, line 10, after "systems" insert "pursuant to subdivision (e)."
- 10) Fiscal impact. This bill provides that it is to be implemented to the extent one-time funding is available in the 2014 Budget. The local control funding formula authorizes school districts to use funds for the initiatives such as those proposed by this bill.
- 11) Related legislation. SB 596 (Yee, 2014) requires the California Department of Education to establish a three-year pilot program to encourage inclusive practices that integrate mental health, special education, and school climate interventions following a multi-tiered framework. SB 596 is pending referral in the Assembly.

SUPPORT

American Civil Liberties Union
California Association of School Psychologists
California School-Based Health Alliance

Central Unified School District
Children Now
Public Counsel

OPPOSITION

None on file.



AJR 36 – Fair Wages for Disabled Workers

IN BRIEF

AJR 36 would call for the United States Congress to phase out and repeal Section 14(c) of the Fair Labor Standards Act that authorizes the use of Special Minimum Wage Certificates for disabled workers.

THE PROBLEM

Existing federal law, Section 14(c) of the Fair Labor Standards Act, allows for employers to pay disabled workers less than minimum wage after obtaining the Special Minimum Wage Certificate.

This practice should be repealed for a number of reasons:

- o Enables exploitation of disabled workers
- o Perpetuates a degrading view point of disabled persons instead of recognizing our fundamental equity
- o The program lacks oversight and a strong appeals process
- o The historically based reasons for the program no longer exist, evident by organizations and states that have moved away from using Section 14(c)

BACKGROUND

This legislation was enacted in 1938, a time when not only was it difficult for organizations that had struggled through the Great Depression to pay disabled workers full wages, but also a time when the disabled community was viewed very differently.

The use of a Special Minimum Wage Certificate, commonly referred to as a “subminimum wage” contributes to an outdated perception of disabled persons as inherently less productive and less valuable than others. This has been proven over and over again to be incorrect by programs that effectively match disabled workers with jobs that complement their skills and abilities.

(<http://www.realworkstories.org/browse-all-stories> and <http://www.allianceforfullparticipation.org/success-stories>)

This perception is reinforced by the “time studies” used in calculating the subminimum wage

rate. Disabled employees are timed while performing a task, such as hanging clothes, to calculate their job productivity compared to a nondisabled person performing the same task. These time studies have been described as degrading by disabled workers, lack oversight by the federal government, and are often misleading because of differing work conditions.

The subminimum wage rates assigned are also difficult for disabled workers to appeal when they believe the rate does not accurately reflect their abilities, because the evidence submitted regarding their supposed productivity comes solely from the employer, and there are no legal penalties against employers who are found to be underpaying a disabled employee.

Proponents of Section 14(c) often claim that subminimum wages are an effective tool to train and then transition disabled workers into competitive, integrated employment. However, a 2001 Governmental Accountability Office Report found that most disabled workers employed in sheltered workshops do not move on to competitive employment. In 2000 55% of the workers in shelter workshops had worked there for five or more years.

Furthermore, many organizations which employ disabled workers have shown that businesses do not need this program to be successful. For instance, National Industries of the Blind was able to transition to paying all of its workers at least the federal minimum wage without any of its facilities going out of business.

US Secretary of Labor Thomas Perez has recently acknowledged these problems and said that the Section 14(c) program “has worked to the detriment of people with disabilities.” Additionally, a recent increase by President Obama in the minimum wage of federal contractors included disabled workers for the first time, marking a significant step forward in this issue.

SPONSOR

National Federation of the Blind

FOR MORE INFORMATION

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Introduced by Assembly Member Gonzalez
(Coauthor: Senator Hueso)

February 19, 2014

Assembly Joint Resolution No. 36—Relative to wages.

LEGISLATIVE COUNSEL'S DIGEST

AJR 36, as introduced, Gonzalez. Special Minimum Wage Certificate Program.

This measure would urge the United States Congress to phase out the use of the Special Minimum Wage Certificate provision and eventually repeal Section 14 (c) of the 1938 Fair Labor Standards Act.

Fiscal committee: no.

- 1 WHEREAS, Meaningful employment, and the wages associated
2 with it, can be an integral part of enabling human dignity and
3 creating more meaningful lives for disabled persons; and
4 WHEREAS, The 1938 federal Fair Labor Standards Act sets
5 out in Section 14(c) the ability for entities that employ disabled
6 persons to obtain special minimum wage certificates from the
7 United States Department of Labor's Wage and Hour Division
8 which entitle them to pay a disabled worker less than the legislated
9 minimum wage rate; and
10 WHEREAS, The 1938 Fair Labor Standards Act's subminimum
11 wage provisions were created in the era of the Great Depression
12 with the intent of subsidizing sheltered workshops which could
13 not afford to pay their workers full wages and, some may argue,
14 incentivizing private companies to employ disabled persons; and

1 WHEREAS, These special wage rates are calculated according
2 to productivity with no specified wage floor; and

3 WHEREAS, The productivity-based calculation of a special
4 minimum wage is generally done by a complicated "time study"
5 which entails an administrator comparing how fast a disabled
6 worker is able to complete a certain task compared to nondisabled
7 workers; and

8 WHEREAS, There differing work and equipment conditions
9 beyond the worker's control, a lack of oversight and enforcement
10 by the Wage and Hour Division for the special minimum wage
11 certificates, a lack of consistency in the time study tests done by
12 employers, and a singling out of disabled workers given that the
13 general workforce is not subjected to standards of timed
14 productivity, the time study practice to determine that wages are
15 both inconsistent and unfair; and

16 WHEREAS, Time studies and the subminimum wages they
17 produce have been described by disabled workers throughout the
18 media as humiliating, degrading, and making them feel like
19 "second-class citizens"; and

20 WHEREAS, Some entities have claimed that the special
21 minimum wage certificates are an essential stepping stone to
22 permanent and fully paid employment in the general workforce.
23 The Psychiatric Rehabilitation Journal published empirical
24 evidence in 2004 which suggested that sheltered workshops are
25 generally ineffective at progressing the disabled workers, while
26 for other employers the special minimum wage certificates serve
27 as an incentive to exploit disabled workers rather than integrate
28 them into the mainstream economy; and

29 WHEREAS, It has been widely documented that many of the
30 organizations which employ disabled persons are in financial
31 situations that would enable them to pay minimum wage to all of
32 their disabled employees, evident in the high compensation
33 packages paid to their executives; and

34 WHEREAS, Some employers, such as the National Industries
35 for the Blind, have already recognized the exploitive nature of
36 paying disabled workers subminimum wage and have been able
37 to transition to the payment of Federal minimum wage, or higher,
38 to their disabled employees without a significant change in
39 profitability or a reduction in their workforce; now therefore, be
40 it

1 *Resolved by the Assembly and the Senate of the State of*
2 *California, jointly, That the Legislature of California request that*
3 *the United States Congress should phase out the use of the Special*
4 *Minimum Wage Certificate provision and eventually repeal Section*
5 *14(c) of the 1938 Fair Labor Standards Act to support the goal of*
6 *competitive integrated employment of people with disabilities*
7 *through the use of modern practices of vocational training,*
8 *improved technology, and innovative rehabilitation and*
9 *employment strategies; and be it further*

10 *Resolved, That the Chief Clerk of the Assembly transmit copies*
11 *of this resolution to the Speaker of the House of Representatives,*
12 *to the Majority Leader of the Senate, and to each Senator and*
13 *Representative from California in the Congress of the United*
14 *States.*

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SB 1160 (Beall)

Intellectual and Developmental Disabilities Worker Protection Fact Sheet

BACKGROUND

The Employment First Policy (AB 1041, Chapter 677, Statutes of 2013) states, "It is the policy of the State that opportunities for integrated, competitive employment shall be given the highest priority for working age individuals with developmental disabilities, regardless of the severity of their disabilities."

Employment represents one of the most significant ways any person engages their community and interacts with society. The value of work extends beyond the wages earned; it encapsulates the concepts of participation, inclusion and acceptance.

The State Departments of Developmental Services and Rehabilitation fund Habilitation Programs that operate necessary services and supports to people with Intellectual and Developmental Disabilities to find, secure, and retain jobs.

PROBLEM

The unemployment rate for people with intellectual and developmental disabilities is nearly 80%. Workers with disabilities need assistance in preparing for a job, finding that job, getting hired and retaining that job over time.

In spite of the desires of many people with Intellectual and Developmental Disabilities (I/DD) to work, many barriers exist that make it difficult.

SB 1160 identifies three of those barriers and proposes strategies to overcome them.

Since the law governing supported employment was first created, the minimum group size of at least three consumers has limited the ability of many small businesses to employ persons I/DD and has reduced the degree of integration of workers into their work environment.

In addition, job sharing is often involved with Group Supported Employment where more than one worker with a disability is required to do the work that would otherwise be done by a worker without a disability. Strict groups-of-three requirements complicate job sharing.

Another issue has been workers improve in their work with experience over time. But the "group of three" has been difficult to maintain because employers may find that two workers can now do what three were previously required to do. Without the authority for group of two, the group has had to be disbanded with all workers losing their jobs.

For people with the most significant disabilities, access to ongoing job coaching is critical. Coaching enables people with cognitive disabilities to learn and retain job skills in ways that may be unique to the individual. The coaching also helps the person remain focused on the work.

Individual placement – where a single worker is on the job – currently requires the job coaching services to fade quickly.

Employers, including the State, are not adequately aware of the value of workers with developmental disabilities. Improving awareness and accessibility to this workforce is critical to improving employment outcomes.

SOLUTION

This bill will greatly improve employment opportunities and outcomes for people with I/DD in several specific ways:

- To enable persons with significant disabilities to work in the most integrated setting possible, the bill relaxes the rapid fading requirement and allows the level of support to be determined based on the persons individual needs.
- By eliminating mandatory minimum groups of 3, SB 1160 will allow smaller groups to remain in place as workers improve their performance.
- Allowing groups of 2, this bill will enable more individualized coaching, enhance integration, and allow smaller businesses unable to accommodate larger groups to take advantage of this valuable work force.
- Changes the definition of "group services" from job coach-to-consumer ratio of not less than 1-to-3 to not less than 1-to-2.

- Conforms the existing requirement for job coaching services to fade in 1-to-1 placements with a consumer's individualized program plan with the goal of achieving stabilization, when possible.
- Requires any department of the State to give a 5 percent bidding preference to a business when at least 10 percent of the workers under the contract are persons with developmental disabilities.

STATUS/VOTES

Senate Human Services Committee, April 22, 2014

SUPPORT

California Disability Services Association (Sponsor)

The Alliance Supporting People with Intellectual and Developmental Disabilities (Co-Sponsor)

OPPOSITION

None on file.

FOR MORE INFORMATION

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AMENDED IN SENATE APRIL 3, 2014

SENATE BILL

No. 1160

Introduced by Senator Beall

February 20, 2014

An act to amend Section ~~4440~~ 4851 of, and to add Section 4870 to, the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

SB 1160, as amended, Beall. ~~Developmental centers.~~ *Employment.*

The Lanterman Developmental Disabilities Services Act authorizes the State Department of Developmental Services to contract with regional centers to provide support and services to individuals with developmental disabilities. The services and supports to be provided to a regional center consumer are contained in an individual program plan, developed in accordance with prescribed requirements. Under existing law, as part of the individual program plan, the regional center may refer an adult consumer to habilitation services, including group services and individualized services in the context of employment. Existing law defines "group services" for these purposes to mean job coaching in a group supported employment placement at a job coach-to-consumer ratio of not less than 1 to 3 nor more than 1 to 8 where services to a minimum of 3 consumers are funded by the regional center or the Department of Rehabilitation. Existing law defines "individualized services" to mean job coaching and other supported employment services for regional center-funded consumers in a supported employment placement at a job coach-to-consumer ratio of 1 to 1, and that decrease over time until stabilization is achieved.

This bill would require, for group services, a job coach-to-consumer ratio of not less than 1 to 2 nor more than 1 to 8 where services to a

minimum of 2 consumers are funded by the regional center or the Department of Rehabilitation. The bill would recast the definition of "individualized services" to provide, in part, job coaching and other supported employment services that decrease over time consistent with the consumer's individualized program plan and abilities with the goal of achieving stabilization, when possible.

Existing law establishes the "Employment First Policy" which provides that it is the policy of the state that opportunities for integrated, competitive employment shall be given the highest priority for working-age individuals with developmental disabilities, regardless of the severity of their disabilities.

This bill would require, when awarding a contract for goods or services, that an awarding department of the state give a preference of 5% in the scoring of a bid by a business that proposes to provide the goods or services to the state when at least 10% of the personnel of the business involved in doing so are California residents with developmental disabilities receiving support services under the Lanterman Developmental Disabilities Services Act. The bill would state findings and declarations of the Legislature regarding the employment of persons with developmental disabilities.

~~Under existing law, the State Department of Developmental Services has jurisdiction over the execution of the laws relating to the care, custody, and treatment of developmentally disabled persons. Existing law also provides that the department has jurisdiction over state hospitals for the developmentally disabled, also known as developmental centers.~~

~~This bill would make technical, nonsubstantive changes to those provisions:~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

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

- 1 SECTION 1. The Legislature finds and declares the following:
- 2 (a) With broad support, in 2013, the "Employment First Policy"
- 3 legislation was signed into law in California, declaring that it is
- 4 the policy of the state that employment for persons with
- 5 developmental disabilities be given the highest priority. However,
- 6 due to cuts in the state budget, employment rates for
- 7 community-based supported employment programs remain 10
- 8 percent below 2006 levels, and over 70 percent of the population

1 with developmental disabilities that is age-appropriate for
2 employment remains unemployed or underemployed.

3 (b) Persons with developmental disabilities should have
4 employment opportunities with job training, reasonable
5 accommodation, and individual supports that enable them to move
6 towards being economically self-sufficient.

7 (c) Regional center service coordinators, community-based
8 program providers, disability advocates, and family members
9 involved in employment-related services for persons with
10 developmental disabilities have the responsibility to provide
11 information to them regarding the full spectrum of employment
12 options.

13 (d) All relevant federal and state laws and regulations designed
14 to protect persons with significant developmental disabilities from
15 economic manipulation or abuse should be fully enforced. The
16 Department of Developmental Services should provide adequate
17 training, technical assistance, oversight, and other reviews to
18 ensure full compliance with the law.

19 SEC. 2. Section 4851 of the Welfare and Institutions Code is
20 amended to read:

21 4851. The definitions contained in this chapter shall govern
22 the construction of this chapter, with respect to habilitation services
23 provided through the regional center, and unless the context
24 requires otherwise, the following terms shall have the following
25 meanings:

26 (a) "Habilitation services" means community-based services
27 purchased or provided for adults with developmental disabilities,
28 including services provided under the Work Activity Program and
29 the Supported Employment Program, to prepare and maintain them
30 at their highest level of vocational functioning, or to prepare them
31 for referral to vocational rehabilitation services.

32 (b) "Individual program plan" means the overall plan developed
33 by a regional center pursuant to Section 4646.

34 (c) "Individual habilitation service plan" means the service plan
35 developed by the habilitation service vendor to meet employment
36 goals in the individual program plan.

37 (d) "Department" means the State Department of Developmental
38 Services.

39 (e) "Work activity program" includes, but is not limited to,
40 sheltered workshops or work activity centers, or community-based

1 work activity programs certified pursuant to subdivision (f) or
2 accredited by CARF, the Rehabilitation Accreditation Commission.

3 (f) "Certification" means certification procedures developed by
4 the Department of Rehabilitation.

5 (g) "Work activity program day" means the period of time
6 during which a Work Activity Program provides services to
7 consumers.

8 (h) "Full day of service" means, for purposes of billing, a day
9 in which the consumer attends a minimum of the declared and
10 approved work activity program day, less 30 minutes, excluding
11 the lunch period.

12 (i) "Half day of service" means, for purposes of billing, any day
13 in which the consumer's attendance does not meet the criteria for
14 billing for a full day of service as defined in subdivision (g), and
15 the consumer attends the work activity program not less than two
16 hours, excluding the lunch period.

17 (j) "Supported employment program" means a program that
18 meets the requirements of subdivisions (n) to (s), inclusive.

19 (k) "Consumer" means any adult who receives services
20 purchased under this chapter.

21 (l) "Accreditation" means a determination of compliance with
22 the set of standards appropriate to the delivery of services by a
23 work activity program or supported employment program,
24 developed by CARF, the Rehabilitation Accreditation Commission,
25 and applied by the commission or the department.

26 (m) "CARF" means CARF the Rehabilitation Accreditation
27 Commission.

28 (n) "Supported employment" means paid work that is integrated
29 in the community for individuals with developmental disabilities.

30 (o) "Integrated work" means the engagement of an employee
31 with a disability in work in a setting typically found in the
32 community in which individuals interact with individuals without
33 disabilities other than those who are providing services to those
34 individuals, to the same extent that individuals without disabilities
35 in comparable positions interact with other persons.

36 (p) "Supported employment placement" means the employment
37 of an individual with a developmental disability by an employer
38 in the community, directly or through contract with a supported
39 employment program. This includes provision of ongoing support
40 services necessary for the individual to retain employment.

1 (q) "Allowable supported employment services" means the
2 services approved in the individual program plan and specified in
3 the individual habilitation service plan for the purpose of achieving
4 supported employment as an outcome, and may include any of the
5 following:

6 (1) Job development, to the extent authorized by the regional
7 center.

8 (2) Program staff time for conducting job analysis of supported
9 employment opportunities for a specific consumer.

10 (3) Program staff time for the direct supervision or training of
11 a consumer or consumers while they engage in integrated work
12 unless other arrangements for consumer supervision, including,
13 but not limited to, employer supervision reimbursed by the
14 supported employment program, are approved by the regional
15 center.

16 (4) Community-based training in adaptive functional and social
17 skills necessary to ensure job adjustment and retention.

18 (5) Counseling with a consumer's significant other to ensure
19 support of a consumer in job adjustment.

20 (6) Advocacy or intervention on behalf of a consumer to resolve
21 problems affecting the consumer's work adjustment or retention.

22 (7) Ongoing support services needed to ensure the consumer's
23 retention of the job.

24 (r) "Group services" means job coaching in a group supported
25 employment placement at a job coach-to-consumer ratio of not
26 less than ~~one-to-three~~ *1 to 2* nor more than ~~one-to-eight~~ *1 to 8*
27 where services to a minimum of ~~three~~ *two* consumers are funded
28 by the regional center or the Department of Rehabilitation. For
29 consumers receiving group services, ongoing support services shall
30 be limited to job coaching and shall be provided at the worksite.

31 (s) "Individualized services" means job coaching and other
32 supported employment services for regional center-funded
33 consumers in a supported employment placement at a job
34 coach-to-consumer ratio of ~~one-to-one~~, *1 to 1* and that decrease
35 over time ~~until stabilization is achieved~~, *consistent with the*
36 *consumer's individualized program plan and abilities with the*
37 *goal of achieving stabilization, when possible*. Individualized
38 services may be provided on or off the jobsite.

39 *SEC. 3. Section 4870 is added to the Welfare and Institutions*
40 *Code, to read:*

1 4870. When awarding a contract for goods or services, an
2 awarding department of the state shall give a preference of 5
3 percent in the scoring of a bid by a business that proposes to
4 provide the goods or services to the state when at least 10 percent
5 of the personnel of the business involved in doing so are California
6 residents with developmental disabilities receiving support services
7 under the Lanterman Developmental Disabilities Services Act.

8 ~~SECTION 1. Section 4440 of the Welfare and Institutions Code~~
9 ~~is amended to read:~~

10 ~~4440. The department has jurisdiction over all of the following~~
11 ~~institutions:~~

- 12 ~~(a) Agnews State Hospital.~~
- 13 ~~(b) Camarillo State Hospital.~~
- 14 ~~(c) Fairview State Hospital.~~
- 15 ~~(d) Frank D. Lanterman State Hospital.~~
- 16 ~~(e) Porterville State Hospital.~~
- 17 ~~(f) Sonoma State Hospital.~~
- 18 ~~(g) Stockton State Hospital.~~

**SENATE HUMAN
SERVICES COMMITTEE**
Senator Carol Liu, Chair

BILL NO:	SB 1160	S
AUTHOR:	Beall	B
VERSION:	April 3, 2013	
HEARING DATE:	April 22, 2014	1
FISCAL:	Yes	1
		6
CONSULTANT:	Mareva Brown	0

SUBJECT

Employment

SUMMARY

This bill decreases the minimum number of consumers required for group habilitation services from three to two, as specified. The bill would recast the term "individualized services" to provide job coaching and other supported employment services that decrease over time with the goal of achieving stabilization, rather than requiring stabilization be achieved. This bill also would require that any state department awarding a contract for goods or services give a bid-scoring preference of 5 percent by a business that proposes to provide the goods or services to the state when at least 10 percent of the personnel of the business involved in doing so are California residents with developmental disabilities receiving support services under the Lanterman Developmental Disabilities Services Act. This bill also makes findings and declarations related to the employment of people with developmental disabilities.

ABSTRACT

Existing law:

- 1) Establishes the California Department of Developmental Services (DDS) to administer the Lanterman Developmental Disabilities Act, which entitles individuals with developmental disabilities to community services and supports. (*WIC 4500*)
- 2) Establishes private non-profit regional centers to provide fixed points of contact in the community for persons with developmental disabilities and their families, so that these persons may have access to the services and supports best suited to them throughout their lifetime. (*WIC 4620*)
- 3) Establishes the Employment First Policy and states that it is the policy of the state that opportunities for integrated, competitive employment shall be given the highest

priority for working age individuals with developmental disabilities, regardless of the severity of their disabilities. (WIC 4869)

- 4) Defines habilitation services as community-based services purchased or provided for adults with developmental disabilities, including services provided under the Work Activity Program and the Supported Employment Program, to prepare and maintain them at their highest level of vocational functioning, or to prepare them for referral to vocational rehabilitation services. (WIC 4851 (a))
- 5) Defines group services to mean job coaching in a group supported employment placement at a job coach-to-consumer ratio of not less than 1:3 nor more than 1:8 where services are funded by the regional center or the Department of Rehabilitation. For consumers receiving group services, ongoing support services shall be limited to job coaching and shall be provided at the worksite. (WIC 4851 (r))
- 6) Defines "Individualized services" to mean job coaching and other supported employment services for regional center-funded consumers in a supported employment placement at a job coach-to-consumer ratio of 1:1, and that decrease over time until stabilization is achieved. Individualized services may be provided on or off the jobsite. (WIC 4851 (s))
- 7) Establishes a small business bid preference for nonprofit veterans service agencies in awarding state contracts under all of the following conditions: (MVC 999.51)
 - a) The goods or services meet the needs of the contractor and offered at a fair and reasonable price,
 - b) The nonprofit veteran service agency employs veterans who receive services for not less than 75 percent of the person-hours of direct labor required to fulfill the contract.
 - c) The nonprofit veteran service agency makes payments into the veterans Social Security and unemployment and disability benefits, as specified.
 - d) The agency adheres to labor rules, as specified, is a 501(c)(3) business, and provides services to veterans, as specified.

This bill:

- 1) States various Legislative findings and declarations about the importance of employment of individuals with developmental disabilities in California and the state's high unemployment rate for these individuals.
- 2) Modifies the minimum job coach-to-consumer ratio to 1:2, from 1:3. Similarly, reduces the minimum number of consumers required to participate in group supported employment from three to two.
- 3) Modifies the definition of individualized services to mean job coaching and other services for regional center-funded consumers in a supported employment placement, as defined, with services that decrease over time, consistent with the consumer's individualized program plan (IPP) and abilities, with the goal of

achieving stabilization, when possible. Current statute defines individualized services as decreasing over time "until stabilization is achieved."

- 4) Requires that when awarding a contract for goods or services, an awarding department of the state shall give a preference of 5 percent in the scoring of a bid by a business that proposes to provide the goods or services to the state when at least 10 percent of the personnel of the business involved in doing so are California residents with developmental disabilities receiving support services under the Lanterman Developmental Disabilities Services Act.

FISCAL IMPACT

This bill has not been analyzed by a fiscal committee.

BACKGROUND AND DISCUSSION

Purpose of the bill:

The author states that for people with the most significant disabilities, access to ongoing job coaching to maintain employment is critical. Coaching enables people with cognitive disabilities to learn and retain job skills in ways that may be unique to the individual. The author notes that individual placement, which pairs a single worker with a job coach, requires the job coaching services to fade quickly. To enable persons with significant disabilities to work in the most integrated setting possible, the author states it is necessary to relax the fading requirement and allow the level of support to be determined by the individual needs of the consumer.

Additionally, the author states that group placement, where small groups of individuals work together to complete a job, currently requires a group size of three to eight consumers to a single job coach. Consumers also can work 1:1 with a job coach under individual coaching plans. This bill would allow groups of two individuals to be included in group coaching, which enhances integration into the workforce, and allows smaller businesses to participate in the program, according to the author. The author also notes that cost pressures to the Supported Employment Program are offset by the cost that the same individual would incur in alternative day programs.

The sponsor notes that language in the bill relating to preference in contracts for businesses that employ individuals with developmental disabilities is loosely modeled from similar language for disabled veterans.

Developmental Disabilities

The term developmental disability refers to a severe and chronic disability that is attributable to a mental or physical impairment that begins before an individual reaches the age of 18. These disabilities include intellectual disability, cerebral palsy, epilepsy, autism and related disorders, and disabling conditions closely related to intellectual disability or requiring similar treatment.

California's 21 nonprofit regional centers are part of a system of care for individuals with developmental disabilities that is overseen by DDS. DDS is responsible for coordinating care and providing services for more than 265,000 people who receive services and supports to live in their communities, as well as approximately 1,300 people who reside in developmental centers.

Employment First Policy

According to a 2012 report by the State Council on Developmental Disabilities, 66.5 percent of all working age Californians were employed, but just 20.5 percent of that population with cognitive disabilities was employed. That report, and other efforts on the state and federal level, resulted in 2013 legislation *AB 1041 (Chesbro) Chapter 677, Statutes of 2013* that created an Employment First policy for individuals with regional center-funded services who are working age. The policy states that opportunities for integrated, competitive employment shall be given the highest priority for working age individuals with development disabilities, regardless of the severity of their disabilities.

Employment Services:

Consumers are placed in employment services programs according to their individual skills, needs and choices, and they are provided support services on an individual or group basis. In addition to providing employment for consumers, work programs can also increase opportunities for individuals to integrate into their communities. Within employment services, there are different types of programs:

- Work Activity Programs (WAPs) are sheltered work environments for consumers who have acquired basic vocational and independent living skills. WAP work is paid at a daily per capita rate based on productivity.
- Supported Employment Programs (SEPs) are community-based programs that focus on helping consumers obtain, retain or maintain employment in integrated settings. SEP services focus on finding competitive work in a community setting for people who need ongoing support to learn and perform the work. SEPs often involve on-the-job coaching, and wages paid directly to the consumer.

If supported employment would best meet a consumer's employment needs, a regional center will refer the consumer to the Department of Rehabilitation (DOR), which provides time-limited employment services to people with disabilities. If the consumer needs long-term support to continue in their place of employment, the responsibility for providing a job coach and maintaining supportive services shifts back to DDS.

Court decision on sheltered workshops

On April 8, 2014, the US Department of Justice and the state of Rhode Island agreed to a settlement which avoids "unnecessary segregation," of placing individuals in work environments that are sheltered workshops and day treatment facilities. In a press conference announcing the settlement, federal officials said that while the settlement addresses the civil rights of about 3,250 Rhode Island residents, it could impact 450,000 individuals across the country that spend their days in sheltered workshops and day

treatment facilities. The consent decree follows a federal Labor Department determination that a Rhode Island program abused a federal law that allows the payment of subminimum wages to people with disabilities. The employees of that program were being paid an average of \$1.57 per hour with one worker earning just 14 cents per hour.

Related legislation:

AB 1626 (Maienschein) 2014, would increase the hourly rate paid to providers of individualized and group-supported employment services to \$34.24, and increase the fees paid to interim program providers to \$400 and \$800, respectively.

AB 954 (Maienschein) 2013, would have increased the hourly provider rate for individualized and group SEP services to \$34.24, and increase the fees paid to interim program providers to \$400 and \$800. It died in the Assembly Appropriations committee.

SB 577 (Pavley) 2013, would establish “community-based prevocational services” to enhance employment readiness for individuals by exploring job options, and developing social skills necessary for the workforce, makes other changes.

AB 1041 (Chesbro) Chapter 677, Statutes of 2013, created the Employment First Policy and required regional centers to provide consumers aged 16 and older with information about employment, options for integrated competitive employment, post-secondary education options, and other information.

Comments:

1. Staff recommends clarifying language in Section 3 of the bill as follows:

~~4870. When awarding a contract for goods or services, an awarding department of the state shall give a preference of 5 percent in the scoring of a bid by a business that proposes to provide the goods or services to the state when at least 10 percent of the personnel of the business involved in doing so are California residents with developmental disabilities receiving support services under the Lanterman Developmental Disabilities Services Act.~~

4870. When a state department awards a contract for goods or services, it shall give a scoring preference of 5 percent to a bid by a business in which at least 10 percent of the personnel who are providing the goods or services receive support services under the Lanterman Developmental Disabilities Services Act.

POSITIONS

Support: Alliance Supporting People with Intellectual and Developmental Disabilities
Association of Regional Center Agencies
California Disability Services Association

Oppose: None received.

SB 1176 (STEINBERG)

AN ACT RELATING TO HEALTH CARE OUT-OF-POCKET EXPENSES

SUMMARY

SB 1176 would place the responsibility for tracking out of pocket expenses on health plans and insurance companies. It would require health plans and insurers to monitor out-of-pocket expenses incurred by the enrollee, to notify the consumer when that individual has achieved the maximum limits related to their copay, coinsurance, deductible and other out-of-pocket expenses and reimburse the consumer to cost sharing in excess of the annual limit.

EXISTING LAW

Section 1367.006 of the California Health & Safety Code and section 10112.28 of the California Insurance Code currently mandate that Health Plans must provide for a maximum limit on the annual out-of-pocket expenses (OOP) for all covered essential benefits. Furthermore, the maximum OOP limit must apply to all forms of cost sharing, for all covered essential benefits. Existing law is unclear or silent on whether it is the responsibility of the consumer or the health plan to monitor accrual of OOP in order to determine when the consumer has met the annual out of pocket maximum.

ISSUE

Some health plans and insurers require members to keep receipts of their OOP, even for in-network care. Subsequently, these consumers must present their receipts to the plan or insurer in order to

demonstrate that they have met their annual limit. Many consumers have found that these requirements are onerous, and that the “explanation of benefits” provided by certain plans/insurers are confusing and difficult to comprehend. Individuals from underserved communities may also face unique challenges in complying with these requirements since this information may not be provided in a linguistically or culturally competent manner. Existing law specifically exempt EOBs from translation requirements so literally the consumer would have no way of knowing what they owe or whether they have hit their out of pocket limit.

Consumers who are unable to track their OOP, will incur continued personal costs that are the legal responsibility of the health plans or insurers. The burden should be on the plan, not the consumer, to track the accrual of out of pocket costs.

THIS BILL

SB 1176 places the burden on the health plan or insurer, not the consumer, to track the accrual of out of pocket costs. It also requires health plans and insurance companies to monitor OOP incurred by the enrollees and to notify the consumers when they have reached the total annual out-of-pocket maximum that is specified by their health care contract. The health plans and insurers would track cost-sharing for in-network providers; and also accept claims for specified services (emergency and covered benefits) that are

provided by out-of-network providers. If the cost-sharing attributable to an enrollee exceeds the total annual OOPE, the health care plan or insurance company would be responsible for reimbursing the individual within 30 days of receipt of the claims information.

CONCLUSION

Existing law has established that specified health plans and health insurance policies are subject to a maximum limit on annual OOPE for all covered benefits that meet the definition of essential health benefits. SB 1176 is a simple measure that establishes uniform reporting requirements on these expenditures from the health plans and insurance companies to the consumers. Thus, this measure clarifies existing law and establishes a "level playing field " for the health care industry. **SB 1176** also provides added consumer protection by providing patients with information that will help safeguard Californians from inadvertently paying inappropriate out-of-pocket expenses.

SPONSOR

Pending

SUPPORT

To be determined.

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AMENDED IN SENATE APRIL 7, 2014

SENATE BILL

No. 1176

Introduced by Senator Steinberg

February 20, 2014

An act to add Section 1367.0061 to the Health and Safety Code, and to add Section 10112.281 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 1176, as amended, Steinberg. Health care coverage: ~~consumer notice; cost sharing; tracking.~~

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. *A willful violation of the act is a crime.* Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law requires a plan or insurer to ~~provide certain disclosures of the benefits, services, and terms of a contract or policy; limit annual out-of-pocket expenses for all covered benefits, as specified.~~

This bill would require a health care service plan or health insurer to be responsible for monitoring the accrual of out-of-pocket costs. The bill would require a health care service plan or health insurer to track the accumulation of cost sharing for covered essential health benefits attributed to in-network providers, and would prohibit those entities from requiring consumers to track or monitor those costs. The bill would require a plan or insurer to accept claims from the provider or the consumer with respect to cost sharing for out-of-network providers who are providing certain emergency services or otherwise providing covered benefits. The bill would also require a plan or insurer to notify

each enrollee or insured when his or her cost sharing has reached the maximum annual out-of-pocket limit for covered essential health benefits and to reimburse an enrollee or insured within 30 days of receiving a claim for cost sharing paid in excess of the maximum annual out-of-pocket limit. Because a willful violation of the bill's provisions by a health care service plan would be a crime, the bill would impose a state-mandated local program.

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 no reimbursement is required by this act for a specified reason.

~~*This bill would declare the intent of the Legislature to enact legislation that would require private health care service plans and health insurance companies to notify a consumer when that individual has achieved the maximum limits related to his or her copay, coinsurance, and deductible as stipulated in the consumer's contract.*~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

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

- 1 SECTION 1. Section 1367.0061 is added to the Health and
- 2 Safety Code, immediately following Section 1367.006, to read:
- 3 1367.0061. (a) The health care service plan shall be
- 4 responsible for monitoring accrual of out-of-pocket costs as defined
- 5 in Section 1367.006.
- 6 (b) The health care service plan shall track the accumulation
- 7 of cost sharing for covered essential health benefits attributed to
- 8 in-network providers, including contracted vendors. The plan shall
- 9 not require consumers to track or monitor the accumulation of
- 10 cost sharing for covered essential health benefits attributed to
- 11 in-network providers, including contracted vendors.
- 12 (c) For cost sharing attributed to out-of-network providers who
- 13 are providing emergency services consistent with Section 1371.4
- 14 or otherwise providing covered benefits, the health care service
- 15 plan shall accept claims from the provider or the consumer with
- 16 respect to cost sharing.

1 (d) If the cost sharing for covered essential health benefits
2 attributable to an enrollee exceeds the maximum annual
3 out-of-pocket limits, the health care service plan shall be
4 responsible for reimbursing the individual within 30 days of receipt
5 of claims information.

6 (e) The health care service plan shall notify each enrollee when
7 the enrollee's cost sharing has reached the maximum annual
8 out-of-pocket limit for covered essential health benefits.

9 (f) Nothing in this section shall be construed as requiring the
10 enrollee to determine or identify when the maximum annual
11 out-of-pocket limit for covered benefits has been reached.

12 SEC. 2. Section 10112.281 is added to the Insurance Code,
13 immediately following Section 10112.28, to read:

14 10112.281. (a) The health insurer shall be responsible for
15 monitoring accrual of out-of-pocket costs as defined in Section
16 10112.28.

17 (b) The health insurer shall track the accumulation of cost
18 sharing for covered essential health benefits attributed to
19 in-network providers, including contracted vendors. The insurer
20 shall not require consumers to track or monitor the accumulation
21 of cost sharing for covered essential health benefits attributed to
22 in-network providers, including contracted vendors.

23 (c) For cost sharing attributed to out-of-network providers who
24 are providing emergency services consistent with Section 10112.7
25 or otherwise providing covered benefits, the health insurer shall
26 accept claims from the provider or the consumer with respect to
27 cost sharing.

28 (d) If the cost sharing for covered essential health benefits
29 attributable to an insured exceeds the maximum annual
30 out-of-pocket limits, the health insurer shall be responsible for
31 reimbursing the individual within 30 days of receipt of claims
32 information.

33 (e) The health insurer shall notify each insured when the
34 insured's cost sharing has reached the maximum annual
35 out-of-pocket limit for covered essential health benefits.

36 (f) Nothing in this section shall be construed as requiring the
37 insured to determine or identify when the maximum annual
38 out-of-pocket limit for covered benefits has been reached.

39 SEC. 3. No reimbursement is required by this act pursuant to
40 Section 6 of Article XIII B of the California Constitution because

1 *the only costs that may be incurred by a local agency or school*
2 *district will be incurred because this act creates a new crime or*
3 *infraction, eliminates a crime or infraction, or changes the penalty*
4 *for a crime or infraction, within the meaning of Section 17556 of*
5 *the Government Code, or changes the definition of a crime within*
6 *the meaning of Section 6 of Article XIII B of the California*
7 *Constitution.*

8 ~~SECTION 1. It is the intent of the Legislature to enact~~
9 ~~legislation that would require private health care service plans and~~
10 ~~health insurance companies to notify a consumer when that~~
11 ~~individual has achieved the maximum limits related to his or her~~
12 ~~copay, coinsurance, and deductible as stipulated in the consumer's~~
13 ~~contract.~~

SENATE COMMITTEE ON HEALTH

Senator Ed Hernandez, O.D., Chair

BILL NO: SB 1176
AUTHOR: Steinberg
AMENDED: April 7, 2014
HEARING DATE: April 24, 2014
CONSULTANT: Boughton

SUBJECT: Health care coverage: cost sharing: tracking.

SUMMARY: Requires a health plan or health insurer to track the accumulation of cost sharing for covered essential health benefits and makes a health plan or insurer responsible for notifying the enrollee or insured when the maximum accrual limit has been reached and requires the plan or insurer to reimburse the enrollee or insured if cost sharing exceeds annual limits.

Existing law:

1. Regulates health plans through the Department of Managed Health Care (DMHC) and health insurance policies through the California Department of Insurance (CDI).
2. Requires a health plan's disclosure forms to provide information about any copayment, coinsurance, or deductible requirements that may be incurred by a member.
3. Pursuant to regulations, requires a description of each copayment, coinsurance, or deductible requirement that may be incurred, a complete statement of all benefits and coverages and related limitations, exclusions, exceptions, reductions, copayments, and deductibles.
4. Requires, under the California Mental Health Parity Act (MHPA), health plans and health insurers to provide coverage for the diagnosis and medically necessary treatment of severe mental illnesses of a person of any age, and of serious emotional disturbances of a child, as specified, under the same terms and conditions applied to other medical conditions, as specified.
5. Requires, under MHPA, maximum lifetime benefits, copayments and coinsurance, and individual and family deductibles to be applied equally to all benefits under the plan or policy.
6. Requires health plans and insurers to also provide coverage for behavioral health treatment for pervasive developmental disorder, or autism, no later than July 1, 2012, and requires the coverage to be provided in the same manner and subject to the same requirements as provided in 4) and 5) above.
7. Establishes Kaiser Small Group HMO as California's essential health benefit (EHB) benchmark plan, which includes, as mandated coverage required of non-grandfathered individual and small group health plan contracts and insurance policies, MHPA, treatment for behavioral health treatment for pervasive developmental disorder or autism, and the federal Mental Health Parity and Addiction Equity Act of 2008 (MHPAE) and all rules, regulations

and guidance issued pursuant to the Affordable Care Act (ACA).

8. Requires, on or after January 1, 2015, for non-grandfathered health plan contracts or health insurance policies in the individual and small group markets to provide for a limit on annual out-of-pocket (OOP) expenses for all covered benefits that meet the definition of EHB, including out-of-network emergency care, as specified. For large group, requires a non-grandfathered health plan or health insurer to provide for a limit on annual OOP expenses for covered benefits, including out-of-network emergency care, as specified. Requires this limit to only apply to EHBs that are covered under the plan or policy to the extent that this provision does not conflict with federal law or guidance on OOP maximums.
9. Requires the maximum OOP limit to apply to any copayment, coinsurance, deductible and any other form of cost sharing for all covered benefits that meet the definition of EHB.
10. Requires the limit described in 9) to result in a total maximum OOP limit for all EHBs equal to the dollar amounts in effect under the Internal Revenue Service, as specified, as adjusted by the ACA, as specified.
11. Excludes specialized health plans or insurance policies from 9-10 unless it offers or provides an EHB.
12. Requires a health plan that covers hospital, medical, or surgical expenses, or its contracting medical providers to provide 24-hour access for enrollees and providers, including, but not limited to, non-contracting hospitals, to obtain timely authorization for medically necessary care, as specified.
13. Requires a group or individual health insurance policy issued, amended, or renewed on or after January 1, 2014 that provides or covers emergency services to cover those services as follows:
 - a. Without the need for prior authorization determination;
 - b. Whether or not the health care provider furnishing the services is a participating provider with respect to those services, and,
 - c. In a manner so that out-of-network cost sharing is the same as would apply if services were provided in network.

This bill:

1. Requires a health plan or health insurer to be responsible for monitoring accrual of OOP costs, as defined.
2. Requires the health plan or health insurer to track the accumulation of cost sharing for covered EHB attributed to in-network providers, including contracted vendors. Prohibits the plan or insurer from requiring the consumers to track or monitor the accumulation of cost sharing for covered EHB attributed to in-network providers, including contracted vendors.
3. Requires the plan or insurer to accept claims from the provider or consumer with respect to cost sharing attributed to out-of-network providers who are providing emergency services, as specified, or otherwise providing covered benefits.

4. Requires the health plan or insurer to be responsible for reimbursing the individual within 30 days of receipt of claims information if the cost sharing for covered EHBs attributable to an enrollee exceeds the maximum annual OOP limits.
5. Requires the health plan to notify each enrollee or insured when the enrollee's cost sharing has reached the maximum annual OOP limit for covered EHB.
6. States that nothing in this bill shall be construed as requiring the enrollee or insured to determine or identify when the maximum annual OOP limit for covered benefits has been reached.

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

COMMENTS:

1. **Author's statement.** According to the author, existing law has established that specified health plans and health insurance policies are subject to a maximum limit on annual OOP expenses for all covered benefits that meet the definition of EHBs. This bill will require health plans and insurers to monitor OOP expenses incurred by the enrollee; to notify the consumer when they have achieved the maximum limits of their copay, coinsurance, deductibles and other OOP expenses; and to reimburse the consumer for costs in excess of the annual limit. This bill is a simple measure that establishes uniform reporting requirements on these expenditures from the health plans and insurance companies to the consumers. This legislation also provides added consumer protection by providing patients with information that will help safeguard Californians from inadvertently paying inappropriate OOP. Thus, this bill clarifies existing law and establishes a "level playing field" for the health care industry.
2. **OOP Policy.** According to DMHC, the department requires health plans to disclose the amounts of deductibles and OOP maximums and how they apply to an individual, an individual member of a family, and the family as a whole so that consumers have full and fair disclosure of the expenses they may incur. For example, a health plan may have a \$2,000 individual/\$4,000 family OOP maximum. When an individual member of a family unit has paid deductibles and copayments for the contract year equal to the individual OOP maximum, that individual does not have to pay any copayments for covered services for the remainder of the year. The DMHC reviews plan materials filed by health plans (both full service and specialized) including Evidence of Coverage and Schedules of Benefits, to ensure that the disclosures relating to OOP maximums and deductibles comply with all the provisions of SB 639 (Hernandez), Chapter 316, Statutes of 2013. If a plan presented an OOP maximum for small groups that exceeded allowable limits, DMHC would direct the plan to lower its OOP to comply with the law. If a small group plan requested a higher OOP maximum for a bronze level of coverage (which is allowed under the law), DMHC would require the plan to demonstrate affordability and access to care. The plan would have the burden to demonstrate to DMHC the benefits to consumers of the proposed higher OOP, such as premium savings and/or richer benefits. According to DMHC, if the consumer exceeds the OOP under the contract, the enrollee is entitled to seek reimbursement from the plan and the enrollee may file a complaint against the plan for paying more than is required under the contract.
3. **Senate Select Committee on Autism and Related Disorders.** The Senate Select Committee on Autism and Related Disorders has been monitoring oversight of SB 946

(Steinberg), Chapter 650, Statutes of 2011, also known as the autism mandate and held a hearing on the topic on March 4, 2014. As part of this effort, the Autism Society of California compiled and published a March 2014 document which indicates copays were a significant issue with 75 percent reporting that these payments posed a significant financial hardship. Over 40 percent of families had copays of \$20 or greater for each applied behavior analysis visit; 56 percent of families had applied behavior analysis visits of four or more times per week. Also, 19 percent of regional center families dropped their private insurance coverage with the copay factor being the most frequent reason for this action. Although the issue of copay notification or tracking was not discussed in detail at the March 4th hearing, this bill was prompted by hearing the stories of autism families facing this problem. For example, Kaiser Permanente (KP) health plan included in a letter that its electronic health record does not track payments to non-KP providers (applied behavior analysis are contracted vendors, since KP doesn't have applied behavior analysis providers as KP providers). The letter indicates the family is responsible for keeping track of expenditures and retaining receipts, in order to determine when the OOP maximum has been met.

4. **Prior legislation.** SB 639 (Hernandez), Chapter 316, Statutes of 2013, codifies provisions of the ACA relating to OOP maximums on cost-sharing, health plan and insurer actuarial value coverage levels and catastrophic coverage requirements, and requirements on health insurers for coverage of out-of-network emergency services. Applies OOP limits to specialized products that offer EHBs and permits carriers in the small group market to establish an index rate no more frequently than each calendar quarter.

SB 126 (Steinberg), Chapter 680, Statutes of 2013, extends, until January 1, 2017, the sunset date of an existing state health benefit mandate that requires health plans and health insurance policies to cover behavioral health treatment for pervasive developmental disorder or autism and requires plans and insurers to maintain adequate networks of service providers.

AB 1453 (Monning), Chapter 854, Statutes of 2012, and SB 951 (Hernandez), Chapter 866, Statutes of 2012, established California's EHBs.

SB 946 (Steinberg), Chapter 650, Statutes of 2012, requires health plans and health insurance policies to cover behavioral health treatment for pervasive developmental disorder or autism, requires plans and insurers to maintain adequate networks of autism service providers, established an Autism Task Force in DMHC, and sunsets SB 946's autism mandate provisions on July 1, 2014.

AB 88 (Thomson), Chapter 534, Statutes of 1999, requires a health care service plan contract or disability insurance policy to provide coverage for severe mental illness, and for the serious emotional disturbances of a child under the same terms and conditions as applied to other medical conditions.

5. **Support.** Proponents argue that existing law is unclear or silent on whether it is the responsibility of the consumer or the health plan to monitor accrual of OOP expenses. Some health plans and insurers require members to keep receipts, even for in-network care. Patients may wind up paying for health care expenses that are the legal responsibility of the health plans or insurance companies. This bill places the burden on the health plan or insurer not the consumer and is an important measure that will safeguard Californians from inadvertently paying inappropriate OOP expenses. The Alliance of California Autism Organizations writes this modification to the Health and Safety Code and Insurance Codes is

important because now some health plans put the burden of tracking copayments, coinsurance and deductibles on the families and require families to submit receipts documenting when cost sharing maximums have been met. These practices put an undue burden on families when the health plan is in a much better position to be able to track this information. Most families are unable to do this excessive administrative tracking and therefore many are charged significantly more than the cost sharing maximums defined in their contracts. Also when families do submit reimbursement, it can take health plans months to reimburse families for the overcharged costs. Families of individuals with disabilities and chronic health conditions are disproportionately affected by this injustice as they are heavier users of healthcare than typical families. Western Center on Law and Poverty supports this bill and requests amendments to include a timeframe for plans and insurers to notify consumer when the OOP maximum has been reached, and that consumers' have the right to review and correct the tally of charges maintained by the plan or insurer.

6. **Opposition.** The California Association of Health Plans (CAHP) writes in opposition that this bill is unworkable because it does not take into account the nature of the health plan model featuring the delegation of medical management and administrative functions to providers under a capitated payment structure. There are currently few integrated systems that allow for real time notification between providers and plans for this particular purpose. Implementing this bill, particularly the notice requirements, could be costly and challenging at a time when plans are being pressured to keep administrative costs as low as possible. According to many of CAHP members, consumers currently have the ability to contact the customer service department of their plan for updates on their out-of-pocket expenditures. However, if the provider has not sent the appropriate encounter or claims information to the plan the data could be outdated. The Association of California Life and Health Insurance Companies writes given the nature of health insurance claims, and the operational realities of the flexibility provided under Preferred Provider Organizations (PPO), the insurer is often the last to know when services have been rendered. Under a PPO, an insured often has the flexibility to choose a provider without prior authorization or referral so an insurer rarely knows until a claim is submitted and processed that a service was provided. As an added complication, while plans are in the process of working toward this goal, there are currently no integrated systems that allow for real time notification between providers and insurers for when services are rendered. Furthermore, the elapsed time between the date of the service and its submittal as a claim can vary from one provider to the next based on each individual provider's operating procedure.
7. **Amendments.**
- a. It is the author's intent that this bill's provisions apply to non-grandfathered individual and group health plans and insurers and specialized plans and insurers that offer or provide EHB. This bill should be amended to make this clear.
 - b. The author also requests the following amendment to Health and Safety Code 1367.0061 and Insurance Code 10112.281:
 - (c) For cost sharing attributed to out-of-network providers who are providing emergency services consistent with Section 1371.4/10112.7 or otherwise providing covered benefits **subject to the annual limit on out-of-pocket expenses as specified in Section 1367.006/10112.281** the health care service plan/health insurance policy shall accept claims from the provider or the consumer with respect to cost sharing.
 - (e) **Within 30 days**, the health care service plan/insurer shall notify each enrollee/insured

when the enrollee's/insured's cost sharing has reached the maximum annual out-of-pocket limit for covered essential health benefits.

New subdivision (f). The enrollee/insured shall have the opportunity to review the accrual of cost sharing and provide additional information regarding cost sharing that should be accrued to the annual out of pocket limit.

SUPPORT AND OPPOSITION:

- Support:** Autism Health Insurance Project (co-sponsor)
Center for Autism and Related Disorders (co-sponsor)
Alliance of California Autism Organizations
Association of Regional Center Agencies
Autism Care and Treatment Today
Autism Research Group
Autism Speaks
Grandparent Autism Network
Special Needs Network
Western Center on Law and Poverty
Several Individuals
- Oppose:** Association of California Life and Health Insurance Companies
California Association of Health Plans

- END -

California State Senate

SENATOR
LOU CORREA

THIRTY-FOURTH SENATE DISTRICT



SENATE BILL 1178

Housing for Californians with Developmental Disabilities

THE PROBLEM

California lacks housing opportunities that are safe, affordable and integrated for persons with developmental disabilities as well as families with children with developmental disabilities. When family caregivers are no longer able to support the adult child in the home, alternative living arrangements are difficult to locate. The system needs to have an array of alternative living arrangements and support services available.

THE SOLUTION

SB 1178 would establish a new source of funding to provide affordable community-based housing for individuals with developmental disabilities.

This bill addresses the impending crises in California related to the lack of affordable housing for regional center consumers with developmental disabilities. The bill provides an innovative approach by establishing a new methodology for regional center subsidies and housing development funds that will be leveraged through existing available resources.

KEY PROVISIONS OF THIS BILL

SB 1178 would establish the California Developmental Disabilities Community Support Housing Fund.

This bill utilizes existing funding resources that are currently allocated to the developmental center operations. As developmental center savings are achieved, SB 1178 ensures that these important resources will "follow the consumers."

SB 1178 funding will be achieved primarily by the transfer of developmental center consumers into a community setting.

Thus, SB 1178 will improve the lives of our most vulnerable Californians while promoting a sound fiscal policy for the Department of Housing and Community Development.

EXISTING LAW

Current law requires cities and counties, when developing their housing elements, to make diligent efforts to obtain, assess, and analyze information on the housing needs of the developmentally disabled. California law also provides financial assistance for the construction, rehabilitation and preservation of permanent and transitional housing for lower income households through the Multifamily Housing Program. Existing law does not provide for a process by which the regional centers can provide consumers with subsidies.

BACKGROUND

Currently, there is a critical shortage of appropriate and affordable housing for individuals with developmental disabilities. Among regional center consumers who are young adults (i.e. 22 to 31-year-olds), roughly 74% still live with their parents. As of September, 2013, the Department of Developmental Services reported that 28,527 of regional center consumers, 32 years of age and older, are currently living with their parents. Another 1,422 consumers still reside in developmental centers; another 300-400 consumers are living in facilities that are ineligible for federal matching funds.

Over the next 12 years, community-based services will be required to meet the needs of more than 71,000 young adults exiting California's school system. Almost 24,000 of these young adults (90% live with their parents) will be transitioning to regional center day programs and other support services in the next three years alone.

Regional centers will have to develop community residential/housing services for almost 9,000 individuals in the next 5 years. In the past 5 years, 79% of state and federal investments in affordable housing in California have been cut.

Housing is considered to be affordable if the household pays no more than 30% of their income. The monthly Supplemental Security Income of \$1003 is provided to consumers. This sum is woefully inadequate to cover the existing "Fair Market Rent" payment of over \$1000 per month. The vast majority of regional center consumers cannot meet current rental costs in California.

SUPPORT

Association of Regional Center Agencies (ARCA) – Sponsor
Autism Society San Francisco Bay Area
Center for Autism & Related Disorders (CARD)
Sunflower Hill

OPPOSITION

None received

CONTACT

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(916) 651-4034
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AMENDED IN SENATE APRIL 10, 2014
AMENDED IN SENATE MARCH 25, 2014

SENATE BILL

No. 1178

Introduced by Senator Correa

February 20, 2014

An act to add Section 4688.7 to the Welfare and Institutions Code, relating to developmental ~~disabilities, and making an appropriation therefor.~~ *disabilities.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1178, as amended, Correa. Developmental disabilities: housing. ~~Under existing law, the State Department of Developmental Services contracts with private nonprofit regional centers to provide services and supports to persons with developmental disabilities. Existing law authorizes the department to receive and approve proposals from regional centers to provide, secure, or ensure the full payment of a lease on housing, excluding adult residential facilities for persons with special health care needs.~~

Existing law establishes the Multifamily Housing Program, under the administration of the Department of Housing and Community Development, to provide financial assistance in the form of a deferred payment loan to fund projects for, among other things, the development and construction of new transitional or rental housing developments.

Existing law establishes the Predevelopment Loan Program, under the administration of the Department of Housing and Community Development, to make predevelopment loans and land purchase loans to eligible sponsors for use in developing assisted housing for occupancy primarily by persons of low income.

This bill would establish the California Developmental Disabilities Community Support Housing Fund, to be administered by the department, and would continuously appropriate all moneys in that fund to the department, thereby making an appropriation. *department and to consist of, among other things, moneys saved from transitioning individuals with developmental disabilities from an institution to housing in the community.* The bill would require the department to ~~distribute moneys in the fund to the Department of Housing and Community Development and to regional centers, to be used for specified purposes, including to create community-based housing options for individuals with developmental disabilities and to establish housing opportunities for individuals with developmental disabilities who are at risk of housing displacement.~~ The bill would require the department to develop guidelines to assist the Department of Housing and Community Development and regional centers in use of moneys received from the fund. *expend moneys in the fund, upon appropriation by the Legislature, to develop housing through the Multifamily Housing Program and the Predevelopment Loan Program for individuals with developmental disabilities.*

Vote: $\frac{2}{3}$ -majority. Appropriation: yes-no. Fiscal committee: yes. State-mandated local program: no.

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

- 1 SECTION 1. *The Legislature finds and declares that the*
 2 *purpose of this act is to develop and provide community-based*
 3 *housing for individuals with developmental disabilities by*
 4 *accomplishing the following:*
 5 (a) *Creating community-based housing options, including shared*
 6 *housing, for individuals with developmental disabilities.*
 7 (b) *Expanding and leveraging existing resources for affordable*
 8 *housing and integrated community placement of individuals with*
 9 *developmental disabilities.*
 10 (c) *Establishing housing opportunities for individuals with*
 11 *developmental disabilities who are at risk of housing displacement.*
 12 SECTION 1.
 13 SEC. 2. Section 4688.7 is added to the Welfare and Institutions
 14 Code, to read:
 15 4688.7. (a) For the purposes of this section, the following
 16 terms have the following meanings:

1 ~~(1) "Bridge funding" means temporary rental assistance used~~
2 ~~to help individuals with developmental disabilities afford integrated~~
3 ~~housing in the community while waiting for permanent assistance,~~
4 ~~including, but not limited to, assistance from the Housing Choice~~
5 ~~Voucher program or wages earned by the individual through~~
6 ~~competitive employment that allows him or her to pay unsubsidized~~
7 ~~rent.~~

8 ~~(2) "Community residence" means a group home, supervised~~
9 ~~apartment, or other type of individual or shared living environment~~
10 ~~that provides housing and treatment or specialized services needed~~
11 ~~to assist individuals with developmental disabilities live in a~~
12 ~~community setting.~~

13 ~~(1) "Community support services" means the services and~~
14 ~~supports identified in subdivision (b) of Section 4512.~~

15 ~~(3)~~

16 ~~(2) "Department" means the Department of Developmental~~
17 ~~Services. Housing and Community Development.~~

18 ~~(4)~~

19 ~~(3) "Fund" means the California Developmental Disabilities~~
20 ~~Community Support Housing Fund.~~

21 ~~(5) "Permanent supportive housing" means a range of permanent~~
22 ~~housing options, including, but not limited to, apartments,~~
23 ~~condominiums, townhouses, single and multi-family homes,~~
24 ~~single-room occupancy housing, shared living, and supportive~~
25 ~~living arrangements that provide access to on- or off-site supportive~~
26 ~~services for individuals with developmental disabilities.~~

27 ~~(6) "Project sponsor" means an individual, partnership,~~
28 ~~corporation, limited liability company, association, or governmental~~
29 ~~entity to which the Department of Housing and Community~~
30 ~~Development has made, or proposes to make, a loan or a grant to~~
31 ~~finance a special needs housing project.~~

32 ~~(7) "Special needs housing project" means a housing~~
33 ~~development, or portion of a housing development, that is used as~~
34 ~~permanent supportive housing or a community residence.~~

35 ~~(8) "Transition funding" means the payment of limited,~~
36 ~~nonrecurring costs that may be incurred as part of a rental~~
37 ~~agreement, including, but not limited to, rental deposits, storage~~
38 ~~or transportation costs, and utility fees.~~

39 ~~(4) "Institution" means a developmental center, a mental health~~
40 ~~facility, including, but not limited to, a facility that provides acute~~

1 *inpatient psychiatric care and an institution for mental disease,*
2 *and a skilled nursing facility.*

3 (b) The California Developmental Disabilities Community
4 Support Housing Fund is hereby established within the State
5 Treasury. ~~Notwithstanding Section 13340 of the Government Code,~~
6 ~~the fund is hereby continuously appropriated to the department for~~
7 ~~the purposes set forth in this section.~~

8 (c) The fund shall consist of all of the following:

9 (1) (A) Moneys saved from transitioning individuals with
10 developmental disabilities from an institution to housing in the
11 community and from preventing the institutionalization of
12 individuals with developmental disabilities.

13 (B) *The Department of Finance, or another state entity*
14 *designated by the Department of Finance, shall annually determine*
15 *the amount of the moneys identified in subparagraph (A) by*
16 *calculating the sum of the following:*

17 (i) *The average annual cost of providing services to a consumer*
18 *who resides in a developmental center, less the average annual*
19 *cost of providing community support services to a consumer who*
20 *is placed in the community, multiplied by the number of consumers*
21 *who have transitioned from an institution to housing in the*
22 *community in the preceding fiscal year.*

23 (ii) (I) *The average annual cost of providing services to a*
24 *consumer who resides in an institution, less the average annual*
25 *cost of providing community support services to a consumer who*
26 *is placed in the community, multiplied by the number of consumers*
27 *who are deflected from admission to an institution.*

28 (II) *For the purposes of this clause, a consumer is deflected*
29 *from admission to an institution if his or her individual program*
30 *plan establishes that he or she has complex service needs and*
31 *requires additional community support services to remain housed*
32 *in the community and avoid admission to an institution or*
33 *placement with an out-of-state service.*

34 (iii) (I) *The average annual cost of providing services to a*
35 *consumer who resides in an institution, less the average annual*
36 *cost of providing community support services to a consumer who*
37 *is placed in the community, multiplied by the number of consumers*
38 *who are at risk of housing displacement.*

39 (II) *For the purposes of this clause, a consumer is at risk of*
40 *housing displacement if his or her individual program plan*

1 identifies that he or she is at risk of housing displacement and may
2 include, but is not limited to, a consumer who resides in jail, who
3 is placed in an inappropriate level of care, who resides in
4 substandard housing, or who can no longer afford the cost of his
5 or her current housing.

6 (C) The Department of Finance, or the other state agency
7 designated by the Department of Finance, shall work with the
8 Department of Social Services, regional centers, and other entities,
9 as appropriate, to obtain the data necessary to make the
10 determination identified in subparagraph (B).

11 (2) Moneys earned from ~~the lease leases~~ of developmental center
12 facilities: facilities entered into after the effective date of this
13 section.

14 (3) Notwithstanding Section 16305.7 of the Government Code,
15 interest and dividends on moneys deposited in the fund pursuant
16 to this section.

17 (4) Any other moneys transferred to the fund.

18 (d) The fund shall be administered by the department.

19 ~~(e) The department shall distribute moneys in the fund, in its
20 discretion, to the Department of Housing and Community
21 Development and to regional centers to be expended for the
22 following purposes:~~

23 ~~(1) To fund capital costs for community residences, special
24 needs housing projects, permanent supportive housing, and other
25 types of licensed and unlicensed housing models, including, but
26 not limited to, shared housing, in order to provide appropriate and
27 affordable housing opportunities for individuals with
28 developmental disabilities.~~

29 ~~(2) To create community-based housing options for individuals
30 with developmental disabilities.~~

31 ~~(3) To expand and leverage existing resources for affordable
32 housing and integrated community placement of individuals with
33 developmental disabilities.~~

34 ~~(4) To establish housing opportunities for individuals with
35 developmental disabilities who are at risk of housing displacement.~~

36 ~~(f) (1) The department shall develop guidelines to assist the
37 Department of Housing and Community Development do the
38 following:~~

39 ~~(A) Establish community residences, special needs housing
40 projects, permanent supportive housing, and other types of housing~~

1 ~~models for individuals with developmental disabilities through~~
2 ~~new construction and rehabilitation and preservation of existing~~
3 ~~permanent and transitional housing.~~

4 ~~(B) Loan or grant moneys for expenses reasonably incurred by~~
5 ~~a project sponsor in connection with the acquisition, construction,~~
6 ~~improvement, or rehabilitation of property that is or will be used~~
7 ~~for a special needs housing project, including, but not limited to,~~
8 ~~the costs and expenses of engineering, inspection, planning, legal,~~
9 ~~financial, or other professional services; the funding of appropriate~~
10 ~~reserves to address the anticipated future capital needs of a special~~
11 ~~needs housing project; and the administrative, organizational, or~~
12 ~~other expenses incidental to the finance, completion, and placement~~
13 ~~into service of any special needs housing project.~~

14 ~~(2) The department shall develop guidelines to assist regional~~
15 ~~centers in providing rental subsidies to individuals with~~
16 ~~developmental disabilities, including, but not limited to, bridge~~
17 ~~funding and transition funding.~~

18 ~~(e) The department shall expend moneys in the fund, upon~~
19 ~~appropriation by the Legislature, to develop housing through the~~
20 ~~Multifamily Housing Program (Chapter 6.7 (commencing with~~
21 ~~Section 50675) of Part 2 of Division 31 of the Health and Safety~~
22 ~~Code) and the Predevelopment Loan Program (Chapter 3.5~~
23 ~~(commencing with Section 50530) of Part 2 of Division 31 of the~~
24 ~~Health and Safety Code) for individuals with developmental~~
25 ~~disabilities.~~

**SENATE HUMAN
SERVICES COMMITTEE**
Senator Carol Liu, Chair

BILL NO:	SB 1178	S
AUTHOR:	Correa	B
VERSION:	April 10, 2014	
HEARING DATE:	April 22, 2014	1
FISCAL:	Yes	1
		7
CONSULTANT:	Mareva Brown	8

SUBJECT

Developmental disabilities: housing

SUMMARY

This bill establishes the California Developmental Disabilities Community Support Housing Fund, to be administered by the Department of Developmental Services (DDS). The fund will consist of moneys saved by transitioning individuals with developmental disabilities from an institution to housing in the community, as well as any savings from diverting individuals from institutions into the community. The bill requires DDS to expend money in the fund to develop housing through specified existing programs.

ABSTRACT

Existing law:

- 1) Establishes the California Department of Developmental Services (DDS) to administer the Lanterman Developmental Disabilities Act, which entitles individuals with developmental disabilities to community services and supports. (WIC 4500)
- 2) Establishes in California law that DDS contracts with private non-profit regional centers to provide fixed points of contact in the community for persons with developmental disabilities and their families, so that these persons may have access to the services and supports best suited to them throughout their lifetime. (WIC 4620)
- 3) Establishes in California law that it is the intent of the legislature that an array of services and supports are provided to sufficiently meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community. To the maximum extent feasible, services and supports should be available throughout the state to prevent the dislocation of persons with developmental disabilities from their home communities. (WIC 4501)

- 4) Requires regional centers to be responsible for expanding opportunities for the full and equal participation of persons with developmental disabilities in their local communities, and specifies activities that may be included, such as:
 - a) Providing assistance to case managers and family members on expanding community integration options for consumers in the areas of work, recreation, social, community service, education, and public services.
 - b) Providing technical assistance to, and coordinating with, community support facilitators who will be used to provide supports to individual consumers for community participation, as needed. (*WIC 4688*)
- 5) Permits DDS to approve proposals by three Bay Area regional centers to provide for, secure, and assure the full payment of a lease or leases on housing, as specified, as part of a plan to move residents of Agnews Developmental Center to the community. (*WIC 4688.5*)
- 6) Creates the Multifamily Housing Program (*HSC 50675*), and the Predevelopment Loan Program (*HSC 50530*) to alleviate the difficulty many California's face in finding affordable housing.

This bill:

- 1) States various Legislative findings and declarations related to the need to establish housing opportunities for individuals with developmental disabilities.
- 2) Defines various terms including that "institution" means a developmental center, a skilled nursing facility, and a mental health facility, including, but not limited to, a facility that provides acute inpatient psychiatric care and an institution for mental disease.
- 3) Establishes the California Developmental Disabilities Community Support Housing Fund within the State Treasury and defines its contents as:
 - a. Moneys saved from transitioning individuals with developmental disabilities from an institution to housing in the community,
 - b. Moneys saved by preventing the institutionalization of individuals with developmental disabilities,
 - c. Moneys earned from leases of developmental center facilities entered into after the effective date of this section,
 - d. Interest and dividends on moneys deposited in the fund, as specified,
 - e. Any other moneys transferred to the fund.
- 4) Directs the Department of Finance, or another state entity designated by the Department of Finance, to annually determine the amount of the moneys to be deposited into the fund by calculating the sum of the following:
 - a. The average annual cost of providing services to a consumer who resides in a developmental center, less the average annual cost of providing community support services to a consumer who is placed in the community, multiplied by the number of consumers who have transitioned

- from an institution to housing in the community in the preceding fiscal year.
- b. The average annual cost of providing services to a consumer who resides in an institution, less the average annual cost of providing community support services to a consumer who is placed in the community, multiplied by the number of consumers who are deflected from admission to an institution.
 - c. The average annual cost of providing services to a consumer who resides in an institution, less the average annual cost of providing community support services to a consumer who is placed in the community, multiplied by the number of consumers who are at risk of housing displacement.
- 5) Defines deflection from admission to an institution to mean that a consumer's individual program plan (IPP) establishes that he or she has complex service needs and requires additional community support services to remain housed in the community and avoid admission to an institution or placement with an out-of-state service.
 - 6) Defines "at risk of housing displacement" to mean that a consumer's IPP identifies that he or she is at risk of housing displacement including, but not limited to, a consumer who resides in jail, is placed in an inappropriate level of care, resides in substandard housing, or who can no longer afford the cost of his or her current housing.
 - 7) Requires the Department of Finance, or the other state agency designated by the Department of Finance, to work with the Department of Social Services, regional centers, and other entities, as appropriate, to obtain the data necessary to determine the moneys to be deposited into the fund, as specified.
 - 8) Requires the fund be administered by the Department of Housing and Community Development.
 - 9) Requires the Department of Housing and Community Development expend moneys in the fund, upon appropriation by the Legislature, to develop housing through the Multifamily Housing Program, as specified, and the Predevelopment Loan Program, as specified, for individuals with developmental disabilities.

FISCAL IMPACT

This bill has not been analyzed by a fiscal committee.

BACKGROUND AND DISCUSSION

Purpose of the bill

The author states that this bill is necessary to address an impending crisis of consumers with developmental disabilities who cannot find affordable housing. When family caregivers are no longer able to support an adult child with a developmental disability at home, alternative living arrangements are difficult to locate, according to the author. The

author states that California lacks housing opportunities that are safe, affordable and integrated for persons with developmental disabilities as well as families with children who have developmental disabilities.

This bill establishes a new methodology for regional center housing development funds that will be leveraged through existing available resources, according to the author. By redirecting funding from developmental center operational funds as consumers are moved into the community, SB 1178 ensures that the resources will follow the consumers, he states.

Regional Centers

California's 21 nonprofit regional centers are part of a system of care for individuals with developmental disabilities that is overseen by DDS. DDS is responsible for coordinating care and providing services for more than 265,000 people who receive services and supports to live in their communities, as well as approximately 1,300 people who reside in developmental centers. California statute defines a developmental disability as a substantial disability that originates before the age of 18 and continues, or can be expected to continue, indefinitely, such as intellectual disabilities, cerebral palsy, epilepsy, and autism.

Affordable Housing

Affordable housing in California remains difficult to find, exacerbated by the Great Recession and a traditionally higher cost of living than in other states, according to several recent reports. "The State of Housing in California 2012: Affordability Worsens, Supply Problems Remain" notes that despite six years of decline in housing prices, California still lacks an adequate supply and mix of housing, in the right locations, and affordable to families, the workforce and special needs populations.¹ Furthermore, it says, the affordability of rental housing in many markets has gradually deteriorated due to falling incomes and rising rents.

This assessment is echoed on a national level by a 2012 study by the Joint Center for Housing Studies at Harvard University.² That study found that there was increasing demand for rental properties because of the recession and continuing population growth, which was resulting in increased rental prices. It also found that the recent economic turmoil underscored the many advantages of renting and raised the barriers to homeownership, sparking a surge in demand that has buoyed rental markets across the country. At the same time, significant erosion in renter incomes over the past decade has pushed the number of people paying excessive shares of income for housing to record levels. Assistance efforts have failed to keep pace with this escalating need, undermining the nation's longstanding goal of ensuring decent and affordable housing for all.

According to the Harvard report, between the onset of the Great Recession in 2007 and 2011, the number of very low-income renters soared by 3.3 million while the number able to obtain housing assistance expanded by just 225,000. As a result, the share of eligible households receiving assistance shrank from 27.4 percent to 23.8 percent.

¹ http://www.hcd.ca.gov/hcd_state_of_housing_ca2012update0812.pdf

² http://www.jchs.harvard.edu/sites/jchs.harvard.edu/files/ahr2013_01-intro.pdf

Housing for Individuals With Developmental Disabilities

As of March 2014, 74 percent of individuals served by California's 21 regional centers were living in the homes of their parents or guardians. Another 11 percent were in community care facilities, while about 10 percent were supported by independent living services. Just 4.5 percent of all residents were residing in a developmental center, nursing home or intermediate care facility.

According to a white paper issued by the Association of Regional Center Agencies (ARCA) in 2009, there are multiple issues that could force many of those people into the housing market. "The high cost of housing in California and the extremely low incomes of people with developmental disabilities have forced people out of the housing market," according to the ARCA report,³ which predicted that thousands of people need and want affordable, safe living options in the community. In March, the California Budget Project released a report illustrating the gap between the SSI/SSP grant for an individual and the fair market rent for a studio apartment. In every county, the grant exceeds 50 percent of the benefit; in 13 counties it exceeds 100 percent.

(Chart removed due to technical issues.)

Double referral

This bill is double-referred to the Senate Transportation and Housing Committee.

Related Legislation

SB 812 (Ashburn) Chapter 507, Statutes of 2010, requires local governments to include in the special housing needs analysis associated with their general plans, the needs of individuals with a developmental disability within the community.

Comments:

1. The calculation of savings from individuals who are moved from, or diverted from, a developmental center or institution includes the subtraction of the average cost of providing community support to a consumer. Since consumers who transition from developmental centers and institutions are typically at the higher end of the service cost scale, it might be more appropriate to subtract the average cost of services for individuals who have moved from a developmental center, or similar institution.
2. This bill defines being at risk of housing displacement to include a consumer who resides in jail, who is placed in an inappropriate level of care, who resides in substandard housing, or who can no longer afford the cost of his or her current housing. Additionally, the author's statement indicates a concern about individuals who are displaced when their aging parents no longer can care for

³ Association of Regional Center Agencies, "Providing Housing for People with Developmental Disabilities: An Analysis of Current Practices and Programs, Guiding Principles, Challenges and Recommendations," March 20, 2009.

them. It is not clear that this would result in savings, but could be included as an explanation in the findings and declarations section.

The author may want to consider adding this language to the findings and declarations section beginning on page 2, line 10:

(c) Establishing housing opportunities for individuals with developmental disabilities who are at risk of housing displacement, including consumers whose individual program plan identifies that he or she is at risk of housing displacement and may include, but is not limited to, a consumer who resides in jail, who is placed in an inappropriate level of care, who resides in substandard housing, whose family members can no longer care for them at home, or who can no longer afford the cost of his or her current housing.

And deleting this language from the calculation of savings section, beginning on page 4, line 34:

4688.7. (c) (1) (iii)

~~(I) The average annual cost of providing services to a consumer who resides in an institution, less the average annual cost of providing community support services to a consumer who is placed in the community, multiplied by the number of consumers who are at risk of housing displacement.~~

~~(II) For the purposes of this clause, a consumer is at risk of housing displacement if his or her individual program plan identifies that he or she is at risk of housing displacement and may include, but is not limited to, a consumer who resides in jail, who is placed in an inappropriate level of care, who resides in substandard housing, or who can no longer afford the cost of his or her current housing.~~

3. This bill inadvertently directs the Department of Social Services instead of DDS to work with the Department of Finance to calculate moneys to be deposited into the fund.

Staff recommends the following amendment commencing on page 5, line 6.

4688.7. (c) (1) (C) The Department of Finance, or the other state agency designated by the Department of Finance, shall work with the Department of Social Developmental Services, regional centers, and other entities, as appropriate, to obtain the data necessary to make the determination identified in subparagraph (B).

4. *Staff also recommends the following clarifying amendment:*

4688.7 (c)(1)(B) The Department of Finance, or another state entity designated by the Department of Finance, shall annually determine and deposit the amount of the moneys identified in subparagraph (A) by calculating the sum of the following.

POSITIONS

Support: Association of Regional Center Agencies (sponsor)
Autism Society San Francisco
Center for Autism and Related Disorders
Sunflower Hill
1 Individual

Oppose: None received.

-- END --

AMENDED IN ASSEMBLY MARCH 26, 2014

CALIFORNIA LEGISLATURE—2013—14 REGULAR SESSION

ASSEMBLY BILL

No. 1687

Introduced by Assembly Member Conway

February 13, 2014

An act to amend Section 4502 of, to amend the heading of Chapter 1 (commencing with Section 4500) of Division 4.5 of, to add the heading of Chapter 1.3 (commencing with Section 4502) to, and to add the heading of Chapter 1.6 (commencing with Section 4507) to, Division 4.5 of, the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1687, as amended, Conway. Persons with Developmental Disabilities Bill of Rights.

Existing law, the Lanterman Developmental Disabilities Services Act, requires the State Department of Developmental Services to contract with regional centers to ~~provide services and supports to individuals with developmental disabilities~~ *provide fixed points of contact in the community for persons with developmental disabilities and their families, and to ensure that a person with developmental disabilities has access to the services and supports best suited to the person throughout his or her lifetime.* Existing law states the intent of the Legislature that persons with developmental disabilities have certain rights, including a right to prompt medical care and treatment and a right to be free from harm, *including abuse or neglect.* Existing law ~~requires that grants specified rights to a person with developmental disabilities who has been admitted or committed to a state hospital, community care facility, or health facility have specified rights,~~

including the right to have access to individual storage space for private use and a right to see visitors each day. Existing law requires a developmental center to immediately report resident deaths and certain serious injuries, including a sexual assault, to the local law enforcement agency having jurisdiction over the city or county in which the developmental center is located.

This bill would recast those rights as the Persons with Developmental Disabilities Bill of Rights. The bill would include, as a right to persons with developmental disabilities, the right to a prompt investigation of any alleged abuse against a person with developmental disabilities and the results of the investigation to be made available to the person and his or her family, legal guardian, conservator, or authorized representative in a timely fashion. By creating new duties for local officials, this bill would impose a state-mandated local program *them*.

~~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 these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: *yes-no*. State-mandated local program: *yes-no*.

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

1 SECTION 1. The heading of Chapter 1 (commencing with
2 Section 4500) of Division 4.5 of the Welfare and Institutions Code
3 is amended to read:

4
5 CHAPTER 1. TITLE AND INTENT

6
7 SEC. 2. The heading of Chapter 1.3 (commencing with Section
8 4502) is added to Division 4.5 of the Welfare and Institutions
9 Code, to read:

10
11 CHAPTER 1.3. PERSONS WITH DEVELOPMENTAL DISABILITIES
12 BILL OF RIGHTS

10
11
12
13

1 SEC. 3. Section 4502 of the Welfare and Institutions Code is
2 amended to read:

3 4502. (a) Persons with developmental disabilities have the
4 same legal rights and responsibilities guaranteed all other
5 individuals by the United States Constitution and laws and the
6 Constitution and laws of the State of California. ~~No~~ An otherwise
7 qualified person by reason of having a developmental disability
8 shall *not* be excluded from participation in, be denied the benefits
9 of, or be subjected to discrimination under any program or
10 activity, which activity that receives public funds.

11 (b) It is the intent of the Legislature that persons with
12 developmental disabilities shall have rights including, but not
13 limited to, the following:

14 (1) A right to treatment and habilitation services and supports
15 in the least restrictive environment. Treatment and habilitation
16 services and supports should foster the developmental potential
17 of the person and be directed toward the achievement of the most
18 independent, productive, and normal lives possible. Such services
19 shall protect the personal liberty of the individual and shall be
20 provided with the least restrictive conditions necessary to achieve
21 the purposes of the treatment, services, or supports.

22 (2) A right to dignity, privacy, and humane care. To the
23 maximum extent possible, treatment, services, and supports shall
24 be provided in natural community settings.

25 (3) A right to participate in an appropriate program of publicly
26 supported education, regardless of degree of disability.

27 (4) A right to prompt medical care and treatment.

28 (5) A right to religious freedom and practice.

29 (6) A right to social interaction and participation in community
30 activities.

31 (7) A right to physical exercise and recreational opportunities.

32 (8) A right to be free from harm, including unnecessary physical
33 restraint, or isolation, excessive medication, abuse, or neglect.

34 (9) A right to be free from hazardous procedures.

35 (10) A right to make choices in their own lives, including, but
36 not limited to, where and with whom they live, their relationships
37 with people in their community, the way they spend their time,
38 including education, employment, and leisure, the pursuit of their
39 personal future, and program planning and implementation.

1 (11) A right to a prompt investigation of any alleged abuse
2 against a person with developmental disabilities. The results of
3 the investigation shall be made available to the person and his or
4 her family, legal guardian, conservator, or authorized representative
5 in a timely fashion *them*.

6 SEC. 4. The heading of Chapter 1.6 (commencing with Section
7 4507) is added to Division 4.5 of the Welfare and Institutions
8 Code, to read:

9
10 CHAPTER 1.6. GENERAL PROVISIONS
11

12 ~~SEC. 5. If the Commission on State Mandates determines that~~
13 ~~this act contains costs mandated by the state, reimbursement to~~
14 ~~local agencies and school districts for those costs shall be made~~
15 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
16 ~~4 of Title 2 of the Government Code.~~

O

ASSEMBLY THIRD READING
AB 1687 (Conway)
As Amended March 26, 2014
Majority vote

HUMAN SERVICES 6-0

Ayes: Stone, Maienschein, Ammiano,
Ian Calderon, Garcia, Grove

SUMMARY: Establishes the Persons with Developmental Disabilities Bill of Rights and adds to the list of rights provided in current statute. Specifically, this bill:

- 1) Renames the list of rights granted to persons with developmental disabilities included in Welfare and Institutions Code (WIC) Section 4502 the Persons with Developmental Disabilities Bill of Rights.
- 2) Adds to the list of rights granted to persons with developmental disabilities the right to a prompt investigation of any alleged abuse against them.

EXISTING LAW:

- 1) Establishes an entitlement to services for individuals with developmental disabilities under the Lanterman Developmental Disabilities Services Act (Lanterman Act). (WIC Section 4500 *et seq.*)
- 2) Grants all individuals with developmental disabilities, among all other rights and responsibilities established for any individual by the United States Constitution and laws and the California Constitution and laws, the right to treatment and habilitation services and supports in the least restrictive environment and the right to be free from harm, including unnecessary physical restraint or isolation, excessive medication, abuse, or neglect. (WIC Section 4502)
- 3) Prohibits discrimination against individuals in protected classes, including national origin and ethnic group identification, for purposes of providing full and equal access to benefits or programs that are operated or funded by the state. (Government Code (GOV) Section 11135 *et seq.*)
- 4) Designates as a mandated reporter of abuse any person with responsibility for care or custody of an elder or dependent adult and requires that mandated reporter to report the known or suspected incident of abuse immediately or as soon as practicably possible, as specified. (WIC Section 15630)
- 5) Defines "dependent adult" as any person who is between the ages of 18 and 64, who has physical or mental limitations which restrict his or her ability to carry out normal activities or to protect his or her rights, including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age, and also includes in the definition any person between the ages of 18 and 64 who is admitted as an inpatient to a 24-hour health facility. (Penal Code (PC) Section 368(h))

- 6) Provides that local and state law enforcement agencies shall have concurrent jurisdiction to investigate elder and dependent adult abuse and all other crimes against elder victims and victims with disabilities, and provides that adult protective services agencies and long-term care ombudsman programs also have jurisdiction to investigate elder and dependent abuse and criminal neglect, to the extent permitted by law, except that law enforcement agencies shall retain exclusive responsibility for criminal investigations. (PC Section 368.5)
- 7) Establishes minimum standards for the examination and treatment of victims of sexual assault, including notification of law enforcement and a requirement that consent be provided by the victim prior to a physical examination, as specified. (PC Section 13823.11)
- 8) Requires an updated continuing education Peace Officer Standards and Training (POST) course that relates to law enforcement interaction with people with mental disabilities to be available to law enforcement agencies in California. (PC Section 13515.25(a))
- 9) Defines protection and advocacy agency as the private, nonprofit corporation designated by the Governor, pursuant to federal law, for the protection and advocacy of the rights of persons with disabilities, including people with developmental disabilities and people with mental illness, as specified. (WIC Section 4900(i))

FISCAL EFFECT: Unknown. This bill is keyed non-fiscal by the Legislative Counsel.

COMMENTS: This bill is one of three introduced by the author intended to address crimes committed against people with developmental disabilities. This bill adds to an established list of rights for people with developmental disabilities the right to a prompt investigation of any alleged abuse against them.

Background: The Lanterman Act (WIC Section 4500 *et seq.*) guides the provision of services and supports for Californians with developmental disabilities. Each individual under the Act, typically referred to as a "consumer," is legally entitled to treatment and habilitation services and supports in the least restrictive environment. Lanterman Act services are designed to enable all consumers to live more independent and productive lives in the community.

The term "developmental disability" means a disability that originates before an individual attains 18 years of age, is expected to continue indefinitely, and constitutes a substantial disability for that individual. It includes intellectual disabilities, cerebral palsy, epilepsy, and autism spectrum disorders (ASD). Other developmental disabilities are those disabling conditions similar to an intellectual disability that require treatment (i.e., care and management) similar to that required by individuals with an intellectual disability. This does not include conditions that are solely psychiatric or physical in nature, and the conditions must occur before age 18, result in a substantial disability, be likely to continue indefinitely, and involve brain damage or dysfunction. Examples of conditions might include intracranial neoplasms, degenerative brain disease or brain damage associated with accidents.

Direct responsibility for implementation of the Lanterman Act service system is shared by the Department of Developmental Services (DDS) and 21 regional centers, which are private nonprofit entities, established pursuant to the Lanterman Act, that contract with DDS to carry out many of the state's responsibilities under the Act. The principal roles of regional centers include

intake and assessment, individualized program plan development, case management, and securing services through generic agencies or purchasing services provided by vendors. Regional centers also share primary responsibility with local education agencies for provision of early intervention services under the California Early Intervention Services Act.

The 21 regional centers throughout the state serve over 260,000 consumers who receive services such as residential placements, supported living services, respite care, transportation, day treatment programs, work support programs, and various social and therapeutic activities. Approximately 1,300 consumers reside at one of California's four Developmental Centers—and one state-operated, specialized community facility—which provide 24-hour habilitation and medical and social treatment services.

Current rights of people with developmental disabilities: In addition to having the same legal rights and responsibilities guaranteed to any other individual in the U.S. Constitution or the California Constitution, Section 4502 of the Welfare and Institutions Code, which this bill amends, provides a more explicit list of rights that the Legislature intends to uphold for individuals with developmental disabilities. These are:

- 1) A right to treatment and habilitation services and supports in the least restrictive environment;
- 2) A right to dignity, privacy, and humane care. To the maximum extent possible, treatment, services, and supports shall be provided in natural community settings;
- 3) A right to participate in an appropriate program of publicly supported education, regardless of degree of disability;
- 4) A right to prompt medical care and treatment;
- 5) A right to religious freedom and practice;
- 6) A right to social interaction and participation in community activities;
- 7) A right to physical exercise and recreational opportunities;
- 8) A right to be free from harm, including unnecessary physical restraint, or isolation, excessive medication, abuse, or neglect;
- 9) A right to be free from hazardous procedures; and
- 10) A right to make choices in their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way they spend their time, including education, employment, and leisure, the pursuit of their personal future, and program planning and implementation.

While these rights should be readily granted, without question, to any person, the often substandard and inappropriate treatment of people with developmental disabilities that led to development of the Lanterman Act and other major changes in law to protect individuals with disabilities prompted the Legislature's development of this explicit list of rights.

Investigations of abuse: While most people without disabilities must contact local law enforcement to report an alleged crime committed against them, a complaint of alleged abuse against a person with a disability, even if he or she does not have a developmental disability, can be made to a number of local and statewide enforcement agencies. Among the agencies that respond to and investigate such complaints are local law enforcement, the Long Term Care Ombudsman, Adult Protective Services, Child Protective Services, the California Department of Social Services and the Department of Public Health, with some variation in applicability of the latter few based on the individual's residence type and age. The Office of Protective Services (OPS) is the primary agency responsible for investigating abuse in the state's developmental centers for persons with developmental disabilities. Additionally, the state's protection and advocacy organization has an investigations unit, which also looks into allegations of abuse and neglect involving people with disabilities and can provide key information to enforcement agencies that facilitate additional actions to help the victims.

Need for the bill: In expressing the need for this bill, Disability Rights California, the state's mandated protection and advocacy agency, states, "People with disabilities are more likely to be the victims of abuse and neglect. Yet, allegations of crimes against them receive lower priority and are investigated more slowly than crimes against their non-disabled peers, with some investigations never being finished or taking months or years to conclude."

The majority of laws and regulations pertaining to the abuse of children, or dependent or elder adults, focus on requirements for certain individuals or entities to report allegations of abuse within a specified amount of time but often do not address the timeline for an investigation of such a report. This bill seeks to ensure that prompt investigations of alleged abuse against individuals with developmental disabilities are part of the process that follows the required reports of alleged abuse. There is no opposition on file.

Analysis Prepared by: Myesha Jackson / HUM. S. / (916) 319-2089

FN: 0003139



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April 1st, 2014

Assemblywoman Connie Conway
State Capitol, Room 3104
Sacramento, CA 95814

RE: AB 1687 - SUPPORT

Honorable Assemblywoman Conway:

The Association of Regional Center Agencies (ARCA) represents the network of 21 non-profit regional centers that coordinate services for, and advocate on behalf of, California's over 265,000 people with developmental disabilities.

On behalf of ARCA, it is my pleasure to express our support for AB 1687, your bill that would recast various rights described in the Lanterman Act as the "Persons With Developmental Disabilities Bill of Rights."

A person's claim on something as intangible a concept as a "right" is made much more real when it is formally set out in law. The history of the struggle for those rights, like so many others, is full of examples of grievous violations of what is now taken for granted. Your bill would also expand those rights to include the "prompt investigation of any alleged abuse." Recent news has described various disturbing allegations, many of which have been substantiated. All other rights – critical though they are – are secondary to the core right to be secure in one's physical safety. That is the foundation from which everything else flows.

Thus, both the concept of a formal bill of rights and its proposed expansion are goals ARCA shares and strongly supports. We appreciate your interest in, and concern for, people with developmental disabilities, and are proud to support your authorship of this bill.

If you have any additional questions regarding our position, please do not hesitate to contact Daniel Savino in our office at dsavino@arcenet.org or (916) 446-7961.

Sincerely,

/s/Eileen Richey
Executive Director

Cc: Assemblymember Mark Stone, Chair, Assembly Human Services Committee
Myesha Jackson, Chief Consultant, Assembly Human Services Committee
Leigh Carter, Legislative Director, Office of Assemblywoman Connie Conway



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California's protection and advocacy system

April 1, 2014

Honorable Connie Conway
California State Assembly
Capitol Building, Room 3104
Sacramento, CA 95814

RE: AB 1687 (Conway) – SUPPORT

Dear Assembly Member Conway:

Disability Rights California, a non-profit advocacy organization mandated to advance the human and legal rights of people with disabilities, is pleased to support AB 1687. The bill is scheduled to be heard in the Assembly Human Services Committee on April 8, 2014.

Disability Rights California supports this bill because it intends to ensure instances of abuse and neglect against people with developmental disabilities receive timely investigations.

People with disabilities are more likely to be the victims of abuse and neglect. Yet, allegations of crimes against them receive lower priority and are investigated more slowly than crimes against their non-disabled peers, with some investigations never being finished or taking months or years to conclude.

Existing law states the intent of the Legislature that persons with developmental disabilities have certain rights, including a right to prompt medical care and treatment and a right to be free from harm. It requires that a person with developmental disabilities who has been admitted or committed to a state hospital, community care facility, or health facility have

specified rights, including the right to have access to individual storage space for private use and a right to see visitors each day. The law requires a developmental center to immediately report resident deaths and certain serious injuries, including a sexual assault, to the local law enforcement agency having jurisdiction over the city or county in which the developmental center is located.

AB 1867 will recast those rights as the Persons with Developmental Disabilities Bill of Rights. The bill will include, as a right, the right to a prompt investigation of any alleged abuse against a person with developmental disabilities.

For these reasons, we support AB 1687. Thank you for introducing the bill and for amending the bill to ensure confidentiality of information. Please contact me if you have any questions about our position on this bill.

Cordially,



Brandon Tartaglia
Disability Rights California
Legislative Advocate

cc: Leigh Carter, Legislative Director, Office of Assembly Member
Conway
Honorable Mark Stone, Chair of the Assembly Human Services
Committee
Honorable Members of the Assembly Human Services Committee
Myesha Jackson, Chief Consultant, Assembly Human Services
Committee

SB 1428 (EVANS) SONOMA DEVELOPMENTAL CENTER LAND USE

THE GOAL

This bill seeks to establish a framework of protections for the community surrounding Sonoma Developmental Center (SDC) by requiring the Department of General Services (DGS) to confer and cooperate with a list of local and state entities before making any decisions concerning the land use of SDC.

BACKGROUND

SDC is one of four Developmental Centers (DCs) operated by the California Department of Developmental Services and is the oldest facility in the state established specifically to serve the needs individuals with developmental disabilities. At its peak in 1967, DCs across the state were home to 13,000 people. Since then, California has moved away from institutionalization as a method of care for developmental disabilities, and instead pursued community based services. This transition is due in large part to the Lanterman Developmental Disabilities Service Act of 1969 which ensures individuals with developmental disabilities the right to services and support that enables them to lead an independent and normal life. Today, SDC is home to about 460 residents.

The land at SDC is of significant importance to the surrounding community. Composed of almost 1,000 acres, the SDC property is situated at the heart of the Sonoma Valley Wildlife Corridor, a crucial passage for wildlife that extends over five miles from Sonoma Mountains to the Mayacamas Mountains, and provides a therapeutic value to the residents and community.

In light of recent certification issues at SDC and other DC closures, the Secretary of Health and Human Services convened a task force on the Future of Developmental Centers in 2013. The Taskforce has since put forth a set of recommendations that call for a transitional downsizing of DCs across the state. To be clear, the taskforce's recommendations do not call for DC closures, but instead advocate for a shift to smaller safety-net crisis and residential services model of care with an emphasis in specialized health care resource center and public/

private partnerships. No official plan has been set for the future of SDC or any of the remaining DCs, but the issue of land use remains a concern to the Sonoma Community.

THIS BILL

Requires that before DGS make any decisions on what to do with land of Sonoma Developmental Center, they confer and cooperate with a list of local and state entities including but not limited the residents and families of SDC, Sonoma County local government, and state and local environmental groups. In addition, this bill authorizes a potential plan to include the development of residential care facilities, public recreational facilities, and an expansion of a wildlife habitat corridor and of water supply facilities.

PREVIOUS LEGISLATION

- AB 955 (Wiggins, 2004) Vetoed—would have required surplus property of SDC to be transferred to the Department of Parks and Recreation and added to Jack London State Park.
- SB 1392 (Pavley/ Rubio, 2012) Held in Asm. Appropriations—would have authorized the lease of surplus DC property and would have created the Californians with Developmental Disabilities Fund for deposit of the revenue.

SUPPORT

Sonoma County Board of Supervisors, Sonoma Land Trust, Sonoma Ecology Center, Sonoma Mountain Preservation, Eldridge Mounted Posse

OPPOSITION

None received.

FOR MORE INFORMATION

Sofia Andrade, sofia.andrade@sen.ca.gov
Office of Senator Noreen Evans
Tel: (916) 651-4002 Fax: (916) 651-4902

Introduced by Senator Evans
(Principal coauthor: Assembly Member Yamada)
(Coauthor: Senator Wolk)
(Coauthor: Assembly Member Levine)

February 21, 2014

An act to add Section 4474.11 to the Welfare and Institutions Code, relating to the Sonoma Development Center.

LEGISLATIVE COUNSEL'S DIGEST

SB 1428, as introduced, Evans. Sonoma Developmental Center: land use.

Existing law vests in the State Department of Developmental Services jurisdiction over state hospitals referred to as developmental centers, including the Sonoma Developmental Center, for providing residential care to persons with developmental disabilities. Under existing law, if the department proposes the closure of a state developmental center, it is required to submit to the Legislature a detailed plan that contains certain information, including, among other things, a description of the land and buildings affected and existing lease arrangements at the developmental center.

This bill would require that, prior to the development of any plan for, or implementation of, any sale, lease, transfer, or major change of use of any portion of the Sonoma Developmental Center, the department and the Department of General Services confer and cooperate with public and private entities in the development of an improvement and redevelopment plan for the center. The bill would authorize the plan to contain specified elements, including plans for the development of new or improved public or private core resident care facilities on the site, the permanent protection, maintenance, operation, and potential

expansion of the wildlife habitat corridor through the property connecting Sonoma Mountain and the Mayacamas Range, the creation of public recreational facilities, and potential expansion of water supply facilities consistent with natural resource protection.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

- 1 SECTION 1. Section 4474.11 is added to the Welfare and
- 2 Institutions Code, to read:
- 3 4474.11. (a) Prior to development of any plan for, or
- 4 implementation of, any sale, lease, transfer, or major change of
- 5 use of any portion of the Sonoma Development Center, the
- 6 department and the Department of General Services shall confer
- 7 and cooperate with public and private entities in the development
- 8 of an improvement and redevelopment plan for the center,
- 9 including, but not limited to:
- 10 (1) The Department of Parks and Recreation, the Department
- 11 of Fish and Wildlife, and the San Francisco Bay Conservancy
- 12 Program of the State Coastal Conservancy.
- 13 (2) Representatives of the County of Sonoma and other local
- 14 governmental entities; an organization or organizations representing
- 15 residents of the center; and with other interested local entities and
- 16 nonprofit organizations.
- 17 (b) The plan may include all of the following elements:
- 18 (1) Development of new or improved public or private core
- 19 resident care facilities on the site.
- 20 (2) The permanent protection, maintenance, operation, or
- 21 expansion of the wildlife habitat corridor through the property
- 22 connecting Sonoma Mountain and the Mayacamas Range.
- 23 (3) Creation of public recreational facilities.
- 24 (4) Potential expansion of water supply facilities consistent with
- 25 natural resource protection.

O

AB 2349 (Yamada) Office of Community Care Coordination

SUMMARY

AB 2349 would create Office of Community Care Coordination within the State Department of Developmental Services to be located on the Sonoma Developmental Center campus. This office will be charged with developing a plan for the scope of services for populations in need of specialized care or acute crisis intervention. This office would additionally identify the capacity and expansion opportunities of existing community models of care. The Office of Community Care Coordination will complete the plan by January 1, 2016.

BACKGROUND

In 1853, California founded the Insane Asylum of California at Stockton, acknowledging the need for the state to have a role in providing services to those with intellectual and developmental delays. This institution later became the Stockton Developmental Center and was the impetus for an entire state hospital system focused on developmentally delayed clients. By 1968, the system had eight open facilities serving the needs of more than 13,400 clients with many more on a waiting list. In 1965, California established two regional centers and their focus began to shift from the developmental center model to more community care programs.

Additional state and federal laws favoring community integration has led to the decline of developmental center population to fewer than 1,500 residents system-wide, accounting for less than 1% of services administered by the Department of Developmental Services. California currently only operates four developmental centers and one small community facility—all of which are certified Skilled Nursing Facilities (SNF), intermediate care facilities/developmentally disabled (ICF/DD), or general acute care hospitals. A 2012-2013 budget trailer bill, AB 1472 further compounded the decline by imposing a moratorium on admissions to developmental centers except for individuals involved in the criminal justice system and consumers in an acute crisis needing short-term stabilization, and only after a court finds that there is no other appropriate placement for that individual within the community. Only the neediest of clients remain in the state's developmental centers often requiring 1-1 staffing, increasing the cost to the state per resident dramatically.

In 2013, the legislature passed AB 89, which required the Health and Human Services administration to submit to the legislature a master plan on the future of the developmental centers. In response, Secretary Dooley convened the "Future of Developmental Centers Task Force" and on January 13, 2014, a report was completed with six specific recommendations for the developmental centers.

NEED FOR BILL

The Future of Developmental Centers Task Force found that existing community services are insufficient to meet the needs of the 16.4 percent of the developmental center residents who have significantly more complex and challenging behaviors. This population needs greater access to specialty services, especially mental health and medication management services, increased psychiatric care, and enhanced wrap-around supports to maintain individuals in their current community residence. Based on the needs of this population, the Task Force recommended the creation of the following:

- At least two 15-bed acute crisis facilities with specialty; one in the northern and one in the southern parts of the State

- Transitional facilities for current developmental center residents
- A “placement of last resort” for individuals with significantly challenging behaviors
- 3-bed community care model homes with specialty wrap around services to provide a higher level of behavioral supports.

Additionally, the Task Force recommended that the Department of Developmental Services do the following:

- Identify community capacity in existing models of care
- Support regional center efforts to enhance supports to maintain individuals in their own homes
- Expand mobile crisis response teams
- Expand crisis hotlines
- Expand day programs
- Provide DC staff to assist with the transition of individuals with challenging behaviors.

AB 2349 would address these recommendations by creating the Office of Community Care Coordination at the Sonoma Developmental Center Campus. This campus is a prime candidate to house this office, as it serves a significant developmental center population and is the center piece of its community in the Sonoma Valley. The office will be charged with developing a plan to assist special needs populations while expanding and enhancing the existing community services. This includes creating a precise definition of the “placement of last resort” and “acute crisis clinics” and a description of the services these facilities will offer. Further, the Office of Community Care Coordination will identify the necessary modifications to allow the Sonoma Developmental Center to operate as such a facility.

SUPPORT

Parent Hospital Association of Sonoma County
 Sonoma Land Trust

STAFF CONTACT

Chris Rogers
 (707) 547-7685
 Chris.Rogers@asm.ca.gov

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2349

Introduced by Assembly Member Yamada

February 21, 2014

An act to add Section 4417.5 to the Welfare and Institutions Code, relating to ~~Sonoma Developmental Center~~ developmental services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2349, as amended, Yamada. *Developmental services: Sonoma Developmental Center.*

Existing law establishes the State Department of Developmental Services and sets forth its duties and responsibilities, including, but not limited to, administration and oversight of the state developmental centers, including the Sonoma Developmental Center, and programs relating to persons with developmental disabilities under the Lanterman Developmental Disabilities Services Act. *Existing law requires the California Health and Human Services Agency to submit to the Legislature a master plan for the future of developmental centers by November 15, 2013, and to submit a report to the Legislature by January 10, 2014, regarding the ability of community resources to meet the specialized needs of residents now living in developmental centers.*

~~This bill would declare the intent of the Legislature to subsequently amend this bill to include provisions relating to establish the Office of Community Care Coordination within the State Department of Developmental Services, and would require the office to develop a plan, on or before January 1, 2016, that addresses, among other things, the operation of at least 2 acute crisis clinics, as specified. The bill would also require the office to identify which modifications are necessary to~~

enable the Sonoma Developmental Center to operate as a placement of last resort and as an acute crisis clinic.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

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

1 SECTION 1. Section 4417.5 is added to the Welfare and
2 Institutions Code, to read:

3 4417.5. (a) There is in the State Department of Developmental
4 Services the Office of Community Care Coordination, which shall
5 develop a plan to establish facilities to assist former residents of
6 developmental centers and to expand and enhance existing
7 community services and supports. The office shall be located on
8 the grounds of the Sonoma Developmental Center.

9 (b) The office shall develop the plan on or before January 1,
10 2016. The plan shall be consistent with the master plan for the
11 future of developmental centers prepared by the California Health
12 and Human Services Agency pursuant to Section 14 of Chapter
13 25 of the Statutes of 2013, and shall address all of the following:

14 (1) The operation of at least two acute crisis clinics, each with
15 a capacity of 15 or fewer beds, to be located in the northern and
16 southern parts of the state.

17 (2) The operation of transitional facilities to facilitate a smooth
18 transition of developmental center residents and staff into the
19 community.

20 (3) The development of residential facilities with specialty
21 wrap-around services to provide a high level of behavioral
22 supports. These facilities shall be similar in nature to those
23 authorized by Section 1567.50 of the Health and Safety Code.

24 (4) Identification of the community capacity in existing models
25 of care.

26 (5) Support of regional center efforts to enhance supports to
27 maintain individuals in their own homes.

28 (6) Collaboration with regional centers to do all of the
29 following:

30 (A) Expand mobile crisis response teams.

31 (B) Expand crisis hotlines.

32 (C) Expand day programs.

33 (D) Create short-term homes.

1 (7) Providing developmental center staff for the transition of
2 individuals with challenging behaviors.

3 (c) The office shall develop, as part of the plan, a precise
4 definition of a "placement of last resort" and an "acute crisis
5 clinic," which shall include a description of the services offered
6 by those facilities. The office shall also identify which modifications
7 are necessary to enable the Sonoma Developmental Center to
8 operate as a placement of last resort and as an acute crisis clinic.

9 ~~SECTION 1. It is the intent of the Legislature to subsequently~~
10 ~~amend this measure to include provisions relating to the Sonoma~~
11 ~~Developmental Center.~~

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

IN-HOME SUPPORTIVE SERVICES. WAGES AND MANDATORY TRAINING.

INITIATIVE STATUTE. For workers providing home care services to the elderly, blind, and disabled pursuant to the state In-Home Supportive Services program, adds an amount to their hourly wage equal to any increase in the state minimum wage. Requires these workers to receive 75 hours of training in subjects such as personal care, disease management, diet, nutrition, physical activities, workplace safety, and consumer and provider roles and rights. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: **State costs upwards of \$600 million annually associated with the measure's requirements to pay a wage supplement and provide paid training to In-Home Supportive Services (IHSS) providers, with costs growing with any future increases in the state-mandated hourly minimum wage. Potential state savings—not likely to exceed the low tens of millions of dollars annually—from reduced public assistance utilization by IHSS providers and a potential reduction in higher-cost publicly funded health care.**

(13-0052.)

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8, of the California Constitution.

This initiative measure adds sections to the Welfare and Institutions Code; therefore, new provisions proposed to be added are printed in *italic* type to indicate that they are new.

SEC. 1. Name

This act shall be known as the "Fair Wages and Training for Home Care Workers Act of 2014."

SEC. 2. Findings and Purpose

This act, adopted by the People of the State of California, makes the following Findings and has the following Purpose:

A. The People make the following findings:

(1) The state has an interest in providing quality care to elderly Californians and Californians with disabilities.

(2) Providing elderly Californians and Californians with disabilities with in-home supportive services through the Medi-Cal program is critical to helping those individuals stay in their homes by providing appropriate and necessary medical and supportive care. Home care workers provide assistance with essential and often intimate daily tasks like bathing, toileting, hygiene, and meal preparation, which enables elderly individuals and individuals with disabilities to continue living safely in their own homes and to avoid unnecessary and unwanted institutionalization.

(3) Elderly Californians and Californians with disabilities often face physical, cognitive, cultural or structural obstacles to receiving the right care at the right time. As a result, the elderly and individuals with disabilities use a disproportionate amount of costly institutional health care services such as hospitals and nursing homes, often for preventable conditions. Home care providers, because of their daily one-on-one interactions with consumers, are in a unique position to reduce some of these barriers. Although home care providers generally assist consumers with activities of daily living, with a small amount of training home care providers could also play a greater role in coordinating and tailoring health care to the individual needs of consumers, including, for example, assisting consumers in navigating a complex health care system to get needed services, observing and communicating changes in health status, providing paramedical services, and coaching consumers with respect to complex diet or medication regimes. A home care provider who is trained in this manner can improve the consumer's care while reducing costs to taxpayers.

(4) State support for home care workers saves the state substantial funds. Allowing elderly Californians and Californians with disabilities to stay living safely in their homes by providing in-home supportive services through home care workers is much less expensive than paying for full-time care in nursing homes and other institutions.

(5) Home care worker turnover is caused both by preventable workplace injuries and by uncompetitive wages. Home care work often requires heavy and repetitive lifting and exposure to infection and bodily fluids, among other physical workplace hazards. These conditions can lead to workplace injuries. Providing training in basic workplace safety precautions will reduce turnover. Payment of fair wages to home care workers is also key to stabilizing the home care workforce so that home care consumers do not suffer gaps in care and high rates of turnover.

(6) Reducing turnover will improve the quality of care consumers receive. It takes time and effort for a consumer to train a home care worker to understand his or her needs and preferences, and it takes even more time to build the level of trust that results in high quality home care. Turnover often leads to gaps in care due to difficulty consumers have recruiting and hiring home care providers. Gaps in care and high rates of provider turnover tend to force consumers to utilize costly sources of medical care, such as emergency rooms, and cause some home care consumers to be forced into nursing homes.

(7) In recent years, home care workers' pay has not kept up with the rising cost of living. Linking the pay of home care workers to increases in the state-mandated minimum wage will maintain home care workers' wages at a level that enhances workforce stability and quality, without causing wages to increase at a greater rate than necessary for maintaining a stable and high-quality home care workforce.

(8) Because of these factors, modest increases in home care workers' wages will tend to save state resources over time. California thus has an interest in developing and expanding the home care worker workforce, including by ensuring that home care workers who provide this critical service are paid a fair wage.

(9) The state also has an interest in ensuring that all home care workers providing care to elderly Californians and Californians with disabilities pursuant to the Medi-Cal program receive training designed to improve the quality of home care services provided.

(10) Training home care workers to assist and care for individuals with common and chronic diseases will result in reduced costs to the state and to families associated with providing acute and long-term institutionalized care.

(11) The wage supplement and training requirements provided for in this measure will enhance the home care worker workforce's stability and quality in a manner consistent with the state's interests in efficiency, economy, and quality care.

- B. In enacting this measure, the purpose of the People is to improve access to and the quality of home care services provided by the state to elderly individuals and individuals with disabilities within the state, in a manner consistent with efficiency and economy, by ensuring that home care workers receive a fair wage and appropriate training.

SEC. 3. Sections 12331, 12331.1, 12331.2, and 12331.3 are added to Article 7 of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

12331. Fair Wages for Home Care Workers.

(a) (1) *Home care workers shall be paid a "minimum wage supplement" by the state, which shall be an amount equivalent to any increase in the state-mandated hourly minimum wage.*

(2) *As of the effective date of this section, the minimum wage supplement shall be calculated as the difference between the state-mandated hourly minimum wage for all industries in effect on the effective date of this section and the state-mandated hourly minimum wage for all industries in effect on January 1, 2014.*

(3) *After the effective date of this section, each time the state-mandated hourly minimum wage for all industries or for workers in domestic, health, or related service industries increases, the minimum wage supplement shall increase by an amount equivalent to the increase in the state-mandated hourly minimum wage. In the event there is a decrease in the state-mandated hourly minimum wage, there shall be no corresponding decrease in the amount of the minimum wage supplement.*

(b) *The minimum wage supplement shall be paid on an hourly basis for all hours worked or for which wages are otherwise due.*

(c) *Provision of the supplement provided for in this section shall not be deemed to reduce, interfere with, or modify other obligations the state and counties have to provide wages and benefits to home care workers, including but not limited to obligations to provide negotiated, mediated, or imposed increases in wages and benefits to home care workers, and obligations pursuant to Sections 10101.1, 12306, 12306.1, 12306.15, or the Coordinated Care Initiative, as defined in Section 34(c)(3) of Chapter 37 of the Statutes of 2013. Nor shall provision of the supplement provided for in this section count in any way toward fulfillment of the obligations of the state and counties to pay home care workers wages not less than the state-mandated hourly minimum wage.*

12331.1. Home Care Worker Training.

(a) *Nothing in this section shall interfere with the right of a consumer to hire, fire, or supervise the work of any home care worker, or to provide training for a home care worker beyond that provided for in this section.*

- (b) No later than June 30, 2015, the department, in consultation with the Department of Health Care Services, and in collaboration with stakeholders including but not limited to consumers and recognized representatives of home care workers, shall develop a mandatory, basic training curriculum for home care workers and shall identify appropriate modes of training. The basic training curriculum shall address core competencies. Appropriate modes of training identified by the department shall include an in-person component and shall incorporate best practices for adult education.
- (c) All individuals providing care as home care workers shall complete seventy-five hours of basic training, subject to the following:
- (1) Any person working as a home care worker and who did not work as a home care worker during either the 2014 or 2015 calendar year must complete the basic training required by this paragraph by June 30, 2016 or within 180 days from the person's date of hire, whichever is later.
 - (2) Any person working as a home care worker and who worked as a home care worker during either the 2014 or 2015 calendar year must complete basic training required by this paragraph by December 31, 2020, or within 180 days from the person's date of hire, whichever is later.
 - (3) Home care workers who hold current and valid licenses as registered nurses, licensed vocational nurses, certified nurse assistants, or home health aides, are not required to complete the basic training required by this section.
- (d) The department shall make arrangements for qualified individuals or organizations to provide the training required by this section. The trainings shall be available no later than January 1, 2016.
- (e) All home care workers shall be paid for all hours spent completing training required by this section based on the same terms on which they are paid for other working hours, including the state supplement provided for in Section 12331. Home care workers shall not be charged for any part of the training, and hours necessary for the training required by this section shall not be deducted from the consumer's authorized hours of services. The training and payment for time spent completing the training required by this section shall be funded through the Medi-Cal program to the extent possible given applicable federal requirements and shall otherwise be paid for by the state.
- (f) The department shall create a form for home care workers to use to certify that they have completed the basic training required by this section.
- (g) No person may practice or, by use of any title or description, represent himself or herself as a home care worker providing in-home supportive services without complying with the basic training requirements in this section.
- (h) The Department of Health Care Services shall promulgate any necessary regulations for implementation of this section.

12331.2. Definitions.

For purposes of Sections 12331 and 12331.1:

- (a) *“Consumer” shall mean a recipient of in-home supportive services.*
- (b) *“Core competencies” means basic training topics, including but not limited to, managing common chronic diseases; personal care; nutrition, diet and physical activities; universal precautions and workplace safety; consumer and provider roles and rights; understanding the health care system; and communication and teamwork skills.*
- (c) *“Department” shall mean the State Department of Social Services.*
- (d) *“Home care workers” shall mean all persons providing in-home supportive services pursuant to this article (commencing with Section 12300) and Sections 14132.95, 14132.952, 14132.956, or any provision of the Coordinated Care Initiative, as defined in Section 34(c)(3) of Chapter 37 of the Statutes of 2013, including individual providers and persons providing in-home supportive services through managed care, consortia, agencies, contracts, or through any other arrangement authorized by law.*

12331.3. Implementation and Federal Approvals.

The Department of Health Care Services shall make any necessary and appropriate amendments to the state's Medicaid State Plan and shall seek any and all necessary and appropriate federal approvals and waivers pursuant to Title XIX of the federal Social Security Act (Subchapter XIX of Chapter 7 of Title 42 of the United States Code (commencing with Section 1396)), to ensure continued compliance with any applicable federal requirements. The Department of Health Care Services, in consultation with the department, shall seek federal financial participation, to the extent possible, in the costs of implementing Sections 12331 and 12331.1. Sections 12331 and 12331.1 shall be effective immediately.

SEC. 3. Amendment

Pursuant to subdivision (c) of Section 10 of Article II of the California Constitution, this act may be amended either by a subsequent measure submitted to a vote of the people at a statewide election; or by statute validly passed by the Legislature and signed by the Governor, but only to further the purposes of this act.

SEC. 4. Competing Measures

In the event that this measure and another measure that provides for lower wages for home care workers than those provided for in this measure, or that establishes mandatory training requirements for home care workers, shall appear on the same statewide ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. Another measure that otherwise regulates the provision of home care workers or in-home supportive services shall not be deemed to be in conflict with this measure. In the event this

measure receives a greater number of affirmative votes than a measure deemed to be in conflict with it, the provisions of this measure shall prevail in their entirety, and the other measure or measures shall be null and void.

SEC. 5. Severability

It is the intent of the People that the provisions of this act are severable and that if any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application of this act which can be given effect without the invalid provision or application.