



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

Posted at www.scdd.ca.gov

DATE: April 9, 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 5
1515 Clay Street, Suite 300
Oakland, CA 94612

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 April 2, 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 3/5/14 MINUTES** J. Lewis

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.

6. **MEMBER REPORTS** All

7. **LEGISLATIVE PLATFORM (update)** M. Polit 3

8. **STATE BUDGET** M. Polit 8

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12. **ADJOURNMENT** J. Lewis

State Council on Developmental Disabilities
Legislative and Public Policy Platform

DRAFT TO COUNCIL

March 20, 2014

The State Council on Developmental Disabilities (Council) is established by state and federal law, the Lanterman Act and the federal Developmental Disabilities and Bill of Rights Act.

The Council advocates for the development and implementation of policies and practices that achieve self-determination, independence, productivity, and inclusion in all aspects of community life for Californians with intellectual and developmental disabilities (IDD) and their families. To that end, the Council develops and implements goals, objectives, and strategies designed to improve and enhance the availability and quality of services and supports.

The Council is comprised of 31 members appointed by the Governor, including individuals with disabilities and their families, and representatives from Disability Rights California, the University Centers for Excellence in Developmental Disabilities, and state agencies.

In addition to the Council's Sacramento headquarters, 13 regional offices provide services to individuals with IDD and their families including, but not limited to, advocacy assistance, training, monitoring, and public information. The Council strives to ensure that appropriate laws, regulations, and policies pertaining to the rights of individuals are observed and protected.

This document conveys the Council's position on major policy issues that affect individuals with IDD and their families.

PROMISE OF THE LANTERMAN ACT

The Lanterman Act promises to honor the needs and choices of individuals with IDD by establishing an array of quality services throughout the state. Services shall support people to live integrated, productive lives in their home communities, in the least restrictive environment. Access to needed services and supports must not be undermined through categorical service elimination, service caps, means testing, or family cost participation fees and other financial barriers. California must not

impose artificial limitations or reductions in community-based services and supports that would compromise the health and safety of persons with IDD.

SELF-DETERMINATION

Individuals with IDD and their families must be given the option to control their service dollars and their services through Self-Determination. With the support of those they choose and trust, people with IDD and their families are best suited to understand their own unique needs, develop their own life goals, and construct those services and supports most appropriate to reach their full potential. Self-Determination gives individuals the tools and the basic human right to pursue life, liberty, and happiness in the ways that they choose.

EMPLOYMENT

A regular job with competitive pay gives people an opportunity to contribute and be valued at a work site; it gives them a chance to build relationships with co-workers, be a part of their communities, and contribute to their local economies. It reduces poverty and reliance on state support, and it provides a life of greater dignity.

Integrated competitive employment is the priority outcome for working age individuals with IDD, regardless of the severity of their disability. Policies and practices must set expectations for employment, promote collaboration between state agencies, and remove barriers to integrated competitive employment through access to information, benefits counseling, job training, postsecondary education, and appropriate provider rates that incentivize quality employment outcomes.

EQUITY

Regional center services and supports must be distributed equitably so that individuals receive culturally and linguistically competent services and supports that meet their needs, regardless of their race, ethnicity, or income. Disparities in services can result in severe health, economic, and quality of life consequences.

EDUCATION

Schools must implement the goals of the Individuals with Disabilities Education Act (IDEA) to provide children with disabilities with free appropriate public education and prepare them for post-secondary education, employment, and independent living. To the maximum extent possible, students with disabilities should be

educated alongside their non-disabled peers in the least restrictive environment. School districts and other educational authorities need to be held accountable for implementing the letter and the intent of IDEA, in all aspects, including measureable post-secondary goals.

TRANSITION TO ADULT LIFE

Education, rehabilitation, and regional center services must support students to transition to integrated competitive employment or post-secondary educational opportunities that will lead to employment. Successful strategies include starting career exploration at age 14, coordination among systems, youth empowerment in their education and service planning, integrated work experiences, family engagement, and a seamless transition to post-secondary work or education.

HEALTH CARE

Individuals must be reimbursed for insurance co-pays, co-insurance, and deductibles, when their health insurance covers therapies that are on their IPPs.

California has an obligation to assure that individuals with disabilities have continuity of care, a full continuum of health care services and equipment, and access to plain language information and supports to make informed decisions about their health care options.

California has an obligation to support the health care of individuals with IDD. This includes people with multiple health care needs, those who require routine preventative care, mental health treatment, dental care, durable medical equipment, and those with gender specific health issues.

HOUSING

Community integrated living options for individuals with IDD must be increased and enhanced through access to housing subsidy programs and neighborhood education to reduce discrimination. Permanent, affordable, accessible, and sustained housing options must be continually developed to meet both current and future needs.

SELF-ADVOCACY

Individuals with IDD must be provided the opportunity and support to assume their rightful leadership in the service system and society, including voting and other civic

responsibilities. Self-advocates must have access to enhanced training, plain language materials, and policy making opportunities.

COMMUNITY PARTICIPATION

Individuals with IDD must have access to and be supported to participate in their communities, with their non-disabled peers, through opportunities such as education, employment, recreation, organizational affiliations, spiritual development, and civic responsibilities.

TRANSPORTATION

Access to transportation is essential to the education, employment, and inclusion of individuals with disabilities. Individuals with IDD must be a part of transportation planning and policymaking to assure their needs and perspectives are heard and addressed. Mobility training must be a standard program among public transportation providers to increase the use of public transportation and reduce reliance on more costly segregated systems.

VICTIMS OF CRIME

All people have a right to be safe; however, individuals with IDD experience a much greater rate of victimization, and a far lower rate of prosecution for crimes against them, than does the general public. The same level of due process protections must be provided to all people. Individuals with IDD need to be trained in personal safety, how to protect themselves against becoming victims of crime, and how their participation in identification and prosecution can make a difference. Law enforcement personnel must be trained in how to work with people with IDD who they interact with during the course of their duties, including those who are victims of crimes.

RATES FOR SERVICES

The state must restore rates to adequately support the availability of quality services for people with all disabilities in all the systems that serve them. A planned and systematic approach to rate adjustments must prioritize and incentivize services and supports that best promotes self-determination, independence, employment, and inclusion in all aspects of community life.

QUALITY OF SERVICES AND SUPPORTS

The State of California must ensure that funding is used to achieve positive outcomes for individuals with IDD and their families. The state must streamline burdensome and duplicative regulations and processes that do not lead to positive outcomes for people with IDD and their families. Quality assessment and oversight must be provided by the state; it must measure what matters, be administered in a culturally competent manner, and the results made public and used to improve the system of services and supports.

- **Restore Early Start eligibility for services to pre-2009 eligibility levels and Early Start optional services such as respite.** This cut was especially troubling, because many infants at risk of disability would not get the preventive services necessary to avoid development of a disability. Aside from the impact on the child, potentially developing life-long functional impairments, the state also incurs long-term costs for special education and a life-time of ongoing support services.
- **Require regional centers to reimburse families for copay, coinsurance, and deductible costs associated with therapies deemed necessary by the IPP.** This was another troubling cost reduction strategy that can deny children access to necessary therapies, resulting in increased functional limitations and significant long-term costs to the state for both special education and long-term supports. A survey by the Autism Society shows that many families when faced with high co-pay and deductible costs are forced to drop their child from their insurance policy (so the full cost of the therapy is then covered by the regional center), reduce the amount of therapy the child receives, or cancel the therapy all together. This policy has been especially unfair, because it applies to only those regional center clients whose families have private insurance; and it forces these families to pay a substantial share of cost for IPP approved services, while the state saves over 80% of the cost of these services, having shifted costs from regional centers to insurance companies.
- **Restore “suspended” services, including social/recreational services, camp, and nonmedical therapies.** The original intent was to eventually restore these services by offsetting the associated savings through implementation of an individual choice budget (ICB) program. However, the ICB would not have achieved the necessary savings and was never implemented. Thus these service “suspensions” have become service eliminations. While a temporary suspension of service types was understandable during a period of \$20 billion deficits, it is no longer reasonable to permanently limit our ability to respond, through the IPP process, to the needs of the child and the family.
- **Remove caps to respite hours** and allow regional centers to authorize respite hours through the individual planning process, based on the family’s need.

The Council also addressed budget reductions that affect all people with disabilities, including those with intellectual and developmental disabilities. These cut backs have weighed heavily on the lives and wellbeing of people with disabilities who struggle to remain in their homes and be a part of their communities. From less income, to less support, to less healthcare, this is a legacy of the last decade that we need to move beyond. Therefore the Council recommends:

- **Restore Medicaid Optional Benefits.**
- **Restore the state contribution to SSI.**
- **Eliminate the 7% reduction in IHSS hours.**

Overtime for IHSS Providers

In January 2015, a revised rule implementing the Fair Labor Standards Act will go into effect that will require the state to pay IHSS workers overtime. The Council urges the Legislature and the Administration to enact a budget that fully funds and continues to allow IHSS providers to work overtime.

Alternative proposals that would eliminate overtime would create tremendous disruption in the lives of both IHSS recipients and their workers. Nearly half of IHSS providers care for a family member, and use the income from IHSS to forgo other jobs and stay home to support their child or spouse with a disability. A cap on hours could reduce a family member's income by over a third, and could cause unnecessary institutionalization as family members are no longer able to remain home with a loved one. Furthermore, there is already a labor shortage for IHSS, in part due to the shifting demographics of the workforce, and in part due to the low wages associated with the job. While overtime pay would increase workers' income and help mitigate the labor shortage, eliminating overtime hours would significantly reduce income, leading to a greater shortage of workers. The plan to recruit large numbers of qualified providers for "back-up" is not only impractical, it represents a significant risk to the health and safety of thousands of IHSS recipients and the potential institutionalization of people unable to secure additional qualified providers. Thus there are considerable risks inherent in capping provider hours and large costs associated with implementing that policy.

If you have any questions, please call Mark Polit, Deputy Director of Policy and Planning at 916-208-3823. Thank you for considering the Council's position.

Sincerely,



Roberta Newton,
Interim Executive Director

CC: Senate President Pro Tempore, Darrell Steinberg
Speaker of the Assembly, John A. Pérez
Santi Rogers, Director, Department of Developmental Services
Eric Gelber, Legislative Director, Department of Developmental Services
Jackie Wong, Office of Senate President Pro Tempore
Gail Gronert, Office of the Speaker of the Assembly
Mareva Brown, Chief Consultant, Senate Human Services Committee
Myesha Jackson, Chief Consultant, Assembly Human Services Committee
Lark Park, Deputy Legislative Secretary, Office of the Governor
Carla Castaneda, Principal Program Budget Analyst, Department of Finance
Senator Mark Leno, Senate Budget Chair
Senator Jim Nielsen, Senate Budget Vice-Chair
Assemblymember Nancy Skinner, Senate Budget Chair
Assemblymember Jeff Gorell, Assembly Budget Vice-Chair



March 12, 2014

Proposal from the Lanterman Coalition on the California Budget and keeping the Promise to Californians with Developmental Disabilities.

Over fifty years ago, California made a promise to this state’s most vulnerable residents. The Lanterman Developmental Disabilities Services Act sets forth the state’s commitment to the people with developmental disabilities as follows:

The State of California accepts a responsibility for persons with developmental disabilities and an obligation to them which it must discharge... An array of services and supports should be established which is sufficiently complete to 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. i WIC §4501

Due to budget cuts over the past 30 years (See ARCA Reports) California is failing to keep its promise to Californians with Developmental Disabilities. In order to keep that promise to individuals with Developmental Disabilities living in the community and to provide a viable community alternative to persons currently living in the Developmental Centers the Lanterman Coalition makes the following budget recommendations.

Support the Plan from the Task Force on the Future of Developmental Centers

Given challenges associated with institutional models of care and a decreasing census in developmental centers, the cost of supporting each individual continues to rise and is unsustainable. Additional costs associated with the correction of deficiencies and deferred maintenance of aging facilities highlight the need to focus available resources on developing community resources, which is consistent with the recommendations in the Developmental Center Task Force report. In order to keep the forward momentum towards less reliance on institutional care, the Legislature should direct the Department of Developmental Services to develop a plan to implement the recommendations of the Developmental Center Task Force.

Down Payment of System Sustainability

The service delivery system, including the Regional Centers and vendored provider agencies, are currently unable to provide services and supports needed to protect health and safety and support integration into the mainstream life of the community. We are requesting a 5% annual increase in provider rates and regional center operations budgets as a down payment to ensure system stability while DDS arrives at a cost-based rates/budgeting system.

Begin the Work of Creating a Cost Based Rate Model

As a result of a series of budget crises California had abandoned the practice of setting rates based on reasonable assumptions about the actual cost of providing services. It is imperative that California begin the work of creating a cost based rate model for delivering services. This is consistent with the recommendation #6 of the Task Force on the Future of Developmental Centers, "Among the many issues to be considered are: 1) the sufficiency of community rates and the impact new State and federal laws and regulations may have; 2) whether current regulations can be streamlined, particularly affecting the licensing of facilities; and, 3) whether certain benefits received by DC residents as part of a DC closure process should be broadened to others in the community."

Invest in Early Start Support for Children with Disabilities

California needs to invest in the future of its youngest children who are at risk for later diagnosis of a Developmental disability. Services provided through California's Early Start program have proven to be successful in preventing and reducing the impact of Developmental disabilities. Failing to provide early intervention can result in the need to fund lifelong support services. California needs to return to providing necessary services to infants and toddlers with risk factors (i.e., low birth weight, prenatal drug exposure, a parent with a developmental disability, etc.) or milder developmental delays noted at age two, as this provides them the opportunity to reach their full developmental potential in early childhood.

Invest in Work for Adults with Developmental Disabilities

California needs to invest in the future of persons with Developmental disabilities by providing an effective path to employment. Inadequate funding of supported work and job development services has led to a decline in employment for Californians with Developmental disabilities. Employment is by far the best option to insure that Californians with Developmental disabilities are integrated into the mainstream life of the community. It provides the dignity and respect that comes with making a contribution the larger society. We request that the legislature increase supported employment services by 10%, as described in AB 1626 (Maienschein), to begin investing in employment outcomes for people with developmental disabilities.

Remove Regional Center Prohibition against Paying for Co-Pay and Deductibles

Providing timely behavioral supports to persons with Autism Spectrum Disorders (ASD) has proven to be a cost effective investment in the future of persons with ASD. These services have allowed for integration into the mainstream life of the community, while reducing the long term cost of supports for persons with ASD. The requirement that private insurance companies fund behavioral supports to persons with Autism has been successful in reducing costs to the state for those services. Unfortunately the prohibition on payment of deductibles and restriction on payment of co-payments has resulted in families having to choose between dropping their insurance coverage or discontinuing essential services due to their inability to afford the cost of the deductible or co-pays. In some cases the cost to regional centers can be even more than the cost of paying these co-pays and deductibles. We urge the legislature to remove the language prohibiting the payment of deductibles attributed to behavioral services and remove the limitations on covering co-payments for behavioral supports. To further exacerbate the problem, when children transitioned out of the Healthy Families

Program into Medi-Cal many lost access to Applied Behavioral Analysis services. We therefore recommend California covers medically necessary Behavioral Health Treatment for Medi-Cal beneficiaries.

Invest in Supporting Family Caregivers

Services provided under the Lanterman Act allow individuals to live in natural settings of their choice. Over 70% of Californians with developmental disabilities are supported in their family home, many with the assistance of services such as In-Home Supportive Services (IHSS) and regional center funded respite. These services allow families to maintain individuals at home at a significant cost savings to the state. Limitations on the number of respite hours that regional centers can authorize combined with a proposal to limit each IHSS worker's hours to forty per week will stretch many families' emotional and financial resources to the point that maintaining the individual in the family home is no longer feasible. In the interest of supporting individuals in their chosen setting and keeping families together, the Lanterman Coalition asks that the Legislature make cost-effective decisions to determine respite hours based only on the needs of each family and to allow chosen IHSS workers to provide the necessary hours of assistance to each individual.

Remove Failed Policies that Cost More than they Save

We call on the legislature to remove statutory requirements added by trailer bills beginning in 2009 that were intended to generate cost savings but in fact only served to increase provider costs for administrative and accounting tasks and decrease the funding desperately needed for actual services. Removing this language will not result in increased costs to the state while helping to improve the provider's ability to deliver quality services. We ask the legislature to remove the trailer bill language calling for the fiscal audit requirements on agencies with budgets below \$2 million, and a parental fee that cost more to determine and collect than savings generated.

Finally, a series of state and federal policy initiatives, including increases in the minimum wage, changes to federal labor regulations relating to overtime for in-home services and other mandates that add significant costs to the developmental services system. These mandatory costs must be funded. They are unrelated to the measures to build future system sustainability discussed above. We are pleased to note that the Governor included a placeholder in the January Budget to address these costs. We expect ongoing work with the Department will result in additional information from the Administration during upcoming Legislative hearings and in the May Revision and full funding of these mandates.

This Lanterman Coalition document was endorsed by the 17 major stakeholders in California's community based developmental services system: The Arc and United Cerebral Palsy California Collaboration, the Association of Regional Center Agencies, Autism Society of California, California Disability Services Association, California Supported Living Network, Disability Rights California, Family Resource Centers Network of California, People First of California, Service Employees International Union, Cal-TASH, Easter Seals, The Alliance, Autism Speaks, the Alliance of California Autism Organizations, ResCoalition, and the California Respite Association.

Honorable Jerry Brown, Governor, State of California
State Capitol, Suite 1173
Sacramento, CA 95814

RE: Early Start Funding

Honorable Governor Brown:

The California Legislature must act now to ensure that all children at-risk of developmental disabilities receive access to the services they need to thrive. Now is the time to [Renew Early Start](#) and make the program whole.

In 2009 California's Legislature tightened eligibility criteria for the Early Start program, which provides critical early intervention for California's infants and toddlers who have a heightened risk of a developmental disability. This change eliminated funding for developmental and therapeutic services for several groups of infants and toddlers, including:

- Infants and toddlers at-risk, due to factors such as extremely premature births or prenatal drug exposure;
- Infants and toddlers at risk because they have a parent with a developmental disability; and,
- Toddlers referred for services at two years of age with considerable delays not significant enough to meet the new, stringent criteria, many who are later diagnosed with Autism Spectrum Disorder.

Babies and toddlers who receive these needed services have the best developmental outcomes. Studies prove that at-risk children who receive early intervention services need fewer services in the future with less cost to the state. In addition, these children have a greater chance at success. Early intervention for all infants and toddlers at-risk for developmental disabilities is a wise investment for the future of children, their families, and for California.

The Association of Regional Center Agencies, the twenty-one nonprofit regional centers it represents, and the organizations listed below urge you to act now to ensure that the Early Start program is again made whole.

Sincerely,

Eileen Richey
Executive Director

Supporting Organizations:

Cc: Members, Senate Budget & Fiscal Review Subcommittee #3
Members, Assembly Budget & Fiscal Review Subcommittee #1
Members, Senate Human Services Committee
Members, Assembly Human Services Committee
Senator Darrell Steinberg, Senate President Pro Tempore
Assembly Member John A. Pérez, Speaker of the Assembly
Senator Holly Mitchell
Peggy Collins, Principal Consultant, Joint Legislative Budget Committee
Kirk Feely, Senate Republican Fiscal Office
Chantele Denny, Consultant, Senate Republican Caucus
Nicole Vasquez, Consultant, Assembly Budget Subcommittee #1
Julie Souliere, Assembly Republican Fiscal Office
Mareva Brown, Chief Consultant, Senate Human Services Committee
Joe Parra, Lead Policy Consultant, Senate Republican Caucus
Myesha Jackson, Chief Consultant, Assembly Human Services Committee
Mary Bellamy, Principal Consultant, Assembly Republican Caucus
Jackie Wong, President Pro Tempore's Consultant, Human Services
Gail Gronnert, Consultant, Assembly Speaker's Office
Nancy Strohl, Consultant, Office of Senator Mitchell
Lark Park, Governor's Advisor, Health and Human Services
Eric Gelber, Assistant Director, Legislation and Regulations, Department of Developmental Services

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California State Senate

SENATOR
FRAN PAVLEY

TWENTY-SEVENTH SENATE DISTRICT

COMMITTEES
NATURAL RESOURCES & WATER
CHAIR
ENERGY, UTILITIES &
COMMUNICATIONS
ENVIRONMENTAL QUALITY
TRANSPORTATION & HOUSING



March 26, 2014

Senator Ellen Corbett
Chair, Senate Budget Subcommittee No. 3 on Health and Human Services
State Capitol, Room 5019, Sacramento, CA 95814-4900

RE: Priority Funding Areas for Developmental Services

Dear Chair Corbett:

Many disability advocates in my own 27th Senate District, and across the state, have expressed the need for increased funding for Developmental Services. Since the passage of the Lanterman Act, California has a responsibility and obligation to people with developmental disabilities. Due to perennial budget cuts to Developmental Services, the state is failing to keep their promise to provide an array of services and supports to sufficiently meet the needs and choices of all Californians with developmental disabilities.

In recent years, the state has restored some of the previous cuts to services. In addition, the Governor's January Budget proposal proposes a modest 4.5 percent increase in funding for Developmental Services. I am heartened by these small, positive steps. However, I believe there are additional outstanding priority issues that need to be addressed in the current budget. These include:

1. **Restore funding for Early Start programs.** In 2009, the Legislature changed Early Start eligibility, thereby restricting access, in an effort to save money. Prioritizing funding for needed services, such as speech and physical therapies, for children with risk factors or milder developmental delays provides them the opportunity to reach their full developmental potential in early childhood and results in long term cost savings to the state.
2. **Increase provider rates and regional center operations.** Since 2000, California CPI has increased by 36 percent, while provider rates and regional center operations budgets have remained stagnant, or have been reduced. While the Governor's January Budget proposes allocating approximately \$110 million to account for the minimum wage increase and federal

overtime rules, this funding only prevents the service delivery system from declining further. A modest 5 percent annual increase in provider rates and regional center operations budgets would ensure that regional centers are able to maintain services while the Department of Developmental Services develops a long-term solution.

3. **Restore funding to Supported Employment.** Supported Employment services are vital to California, especially due to the new state-wide “employment first” policy, effective January 1, 2014. Funding for Supported Employment services was cut by 10 percent in 2008, these rates have remained frozen since then. In addition, the Governor’s January Budget currently provides no allocation to Supported Employment. While Assembly Member Maienschein has introduced AB 1626 to restore these cuts, I would encourage the budget sub-committee on health and human services to explore potential trailer bill language as well.

Lastly, I have attached a letter from the Lanterman Coalition—a comprehensive group of major stakeholders in California’s community based developmental services system. The letter further elaborates on several additional budget recommendations and provides a blueprint to a healthy, sustainable developmental services system in California.

I thank you for your attention to this important matter.

Sincerely,



Fran Pavley
California State Senator
District 27

cc: Senator Leno, Chair of the Senate Budget & Fiscal Review Committee
cc. Members of the Senate Budget Subcommittee No. 3 on Health and Human Services

Chair, Senator Ellen M. Corbett

Senator Bill Monning

Senator Mimi Walters



March 27, 2014

9:30 a.m. - John L. Burton Hearing Room 4203

PART A

Staff: Peggy Collins

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PLEASE NOTE: Only those items contained in this agenda will be discussed at this hearing. Please see the Senate Daily File for dates and times of subsequent hearings. Issues will be discussed in the order as noted in the agenda unless otherwise directed by the Chair.

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-651-1505. Requests should be made one week in advance whenever possible. Thank you.

4300 Department of Developmental Services (DDS)

Department Overview

The Department of Developmental Services (DDS) oversees the provisions of services and supports to approximately 267,042 persons with developmental disabilities and their families, pursuant to the provisions of the Lanterman Developmental Disabilities Services Act (Division 4.5 of the California Welfare and Institutions Code). For the majority of eligible recipients, services and supports are coordinated through 21 private, non-profit corporations, known as regional centers (RCs). The remaining recipients are served in four state-operated institutions, known as developmental centers (DCs) and one state-leased and operated community facility. The regional center caseload is expected to increase from 265,709 in the current year to 273,643 in the budget year (a three percent increase); and the number served in state-operated facilities is expected to decrease from 1,333 in the current year to 1,110 in the budget year (a 16.7 percent decrease).

Eligibility: To be eligible for services and supports through a regional center or in a state-operated facility, a person must have a disability that originates before their 18th birthday, be expected to continue indefinitely, and present a substantial disability. As defined in Section 4512 of the California Welfare and Institutions Code, this includes an intellectual disability, cerebral palsy, epilepsy, and autism, as well as conditions found to be closely related to intellectual disability or that require treatment similar to that required for individuals with an intellectual disability. A person with a disability that is solely physical in nature is not eligible.

Infants and toddlers (age 0 to 36 months), who are at risk of having a developmental disability or who have a developmental delay, may also qualify for services and supports (see Early Start discussion later in the agenda).

Eligibility is established through diagnosis and assessment performed by regional centers.

Governor's Budget: The following chart from the DDS "Regional Center Local Assistance Estimate for Fiscal Year 2014-15," provides a summary of the proposed 2014-15 budget, the various fund sources, caseload, and authorized positions, as it compares to the proposed revised 2013-14 budget.

DEPARTMENT OF DEVELOPMENTAL SERVICES			
2014-15 Governor's Budget			
<i>(Dollars in Thousands)</i>			
	2013-14	2014-15	Difference
Community Services Program			
Regional Centers	\$4,385,940	\$4,636,758	\$250,818 *
Totals, Community Services	\$4,385,940	\$4,636,758	\$250,818
General Fund	2,472,574	\$2,634,203	\$161,629
Dev Disabilities PDF	5,908	5,808	-100
Developmental Disabilities Svs Acct	150	150	0
Federal Trust Fund	48,655	48,771	116
Reimbursements	1,857,913	1,947,086	89,173
Mental Health Services Fund	740	740	0
Developmental Centers Program **			
Personal Services	\$474,741	\$442,163	-\$32,578
Operating Expense & Equipment	47,566	58,145	10,579
Staff Benefits Paid Out of Operating Expense & Equipment	33,669	25,677	-7,992
Total, Developmental Centers	\$555,976	\$525,985	-\$29,991
General Fund	\$305,162	\$274,546	-\$30,616
Federal Trust Fund	510	394	-116
Lottery Education Fund	403	403	0
Reimbursements	249,899	250,642	743
Headquarters Support			
Personal Services	\$34,648	\$36,063	\$1,415
Operating Expense & Equipment	5,111	\$4,661	-450
Total, Headquarters Support	\$39,759	\$40,724	\$965
General Fund	\$25,340	\$25,941	\$601
Federal Trust Fund	2,525	2,518	-7
PDF	286	321	35
Reimbursements	11,220	11,508	288
Mental Health Services Fund	388	436	48
Totals, All Programs	\$4,981,675	\$5,203,467	\$221,792
Total Funding			
General Fund	\$2,803,076	\$2,934,690	\$131,614
Federal Trust Fund	51,690	51,683	-7
Lottery Education Fund	403	403	0
Dev Disabilities PDF	6,194	6,129	-65
Developmental Disabilities Svs Acct	150	150	0
Reimbursements	2,119,032	2,209,236	90,204
Mental Health Services Fund	1,128	1,176	48
Caseloads			
Developmental Centers	1,333	1,110	-223
Regional Centers	265,709	273,643	7,934
Authorized Positions			
Developmental Centers	4,910.5	4,464.5	-446.0
Headquarters	374.5	381.5	7.0
* The Governor's Budget will not reflect a \$613,000 reduction of Federal Funds due the reallocation of Early Start, Part C funds. ** The Developmental Centers funding is understated by \$986,282 due to an error in costing and will be corrected in May Revise 2014-15.			

The **Legislative Analyst's Office (LAO)** finds both the developmental center and community services caseload estimates to be reasonable.

Question for DDS:

- *Please briefly describe the overall developmental disabilities system and the factors driving increases in consumers and utilization. How do these changes relate to trends in the past few years?*

DDS Headquarters

The Governor's budget provides \$40.7 million (\$25.9 million General Fund (GF)) for DDS headquarters, a \$1.4 million (\$0.9 million GF) increase over the enacted 2013-14 budget. The increases are attributable to increase in employee compensation costs approved through collective bargaining and changes in retirement contribution rates (\$.5 million [\$.3 million GF]) and the two Budget Change Proposals (BCPs) discussed below.

ISSUE 1: Establish Existing Limited-Term CEA II Position as Permanent BCP #1

DDS is requesting \$160,000 (\$108,000 GF) to convert 1.0 CEA II, Assistant Deputy Director, Office of Federal Programs and Fiscal Support, position from limited-term to permanent. This position was established in 2010-11, and reapproved in 2012-13, as a two-year limited-term position, pending further review of the workload associated with federal funding requirements. In May 2013, CalHR approved the permanent establishment and level of this position.

This position was initially established for the purpose of seeking and implementing new sources of federal financial participation (FFP). Currently, DDS draws down approximately \$1.8 billion in federal funding under such programs as the Home and Community-Based Services (HCBS) waiver; 1915 (i) State Plan Amendment (SPA); Money Follows the Person Grant; and the Early Start Program (through the Department of Education). Additionally, pursuant to SB 468 (Emmerson), Chapter 683, Statutes of 2013, DDS is required to apply for federal Medicaid funding for the Self-Determination Program by December 31, 2014.

This position is responsible for the directing and overseeing of 46.5 staff positions that perform ongoing program development, implementation, administration, and monitoring of federal programs and ensuring compliance with complex federal regulations and requirements. The position reports to the Deputy Director over the Community Services Division.

Questions for DDS:

- *Please discuss how federal funding participation (FFP) in the community services budget has changed over the last decade.*
- *What impact does increased FFP have on DDS and regional center administrative oversight and reporting duties?*

Staff Comment and Recommendation: DDS has significantly increased its reliance on federal funding to support state programs serving persons with developmental disabilities. With this increased reliance, come increased federal requirements to monitor service delivery. No issues have been raised with this proposed. APPROVE BCP #1.

ISSUE 2: Vendor Audit Positions BCP # 3

DDS is requesting \$897,000 (\$605,000 GF) for 7.0 limited-term auditor positions to meet workload associated with increased demand for vendor audits and associated recovery of funds.

The DDS Vendor Audit Section was established in 2004-05, along with 16 audit positions, to audit service providers who are vendored by regional centers, receive payments in excess of \$100,000, and/or provide services to consumers in multiple regional center catchment areas. In 2008-09, 7.0 audit positions and 1.0 office technician position were eliminated as part of the required 10 percent “across-the-board” budget balancing reductions.

In 2010, the CA State Auditor (CSA) released an audit¹ of DDS and regional centers that reported nearly half of regional center employee respondents did not feel safe to report suspected impropriety and that DDS did not, at that time, log, track, nor have a written process for such complaints. In response, DDS administratively established a “Whistleblower Complaint Process”, including contract requirements that regional centers institute whistleblower policies and processes consistent with the DDS directive. Under this process, DDS investigates complaints alleging fraudulent fiscal activity for a vendor who received prior year annual payments above \$100,000 (which may involve an audit). Additionally, any complaint alleging fraudulent activity or misuse of state funds by a regional center is referred to the DDS’ Audits Branch.

In 2011, SB 74 (Committee on the Budget), Chapter 9, Statutes of 2011, further refined the monitoring and review of provider administrative costs. Among the changes adopted through AB 74 was a requirement that all regional center contracts or agreements with service providers limit administrative costs to 15 percent; strengthened regional center policies on contracting and conflict-of-interest reporting requirements, requirements for regional centers to post specified information on the website, and a requirement for independent audit/review for contractors that receive over \$250,000 for services to regional centers and independent audits for contractors that receive over \$500,000 for services to regional centers.

According to DDS, as of December 31, 2013, the Vendor Audit Section had an “unduplicated backlog” of whistleblower complaints of 27 vendors, primarily relating to unsupported or fraudulent billings.

Questions for DDS:

- *Please describe the audit process and the timeframe for the completion of an audit?*
- *What percentage of audits resulted in funding recoupments? How much has been recouped since the unit was established?*
- *Would additional positions result in increased recoupments in the budget year?*
- *Why are these positions proposed to be limited-term?*

Staff Comment and Recommendation: Leave open.

¹ “Department of Developmental Services: A More Uniform and Transparent Procurement and Rate-Setting Process Would Improve the Cost-Effectiveness of Regional Centers,” California State Auditor, August 24, 2010.

Developmental Centers

DDS operates four state institutions, known as developmental centers (DCs), and one smaller state-leased and operated community facility that care for adults and children with developmental disabilities. The Governor's budget for the DCs includes \$526 million (\$275 million GF) to serve an estimated average of approximately 1,110 residents in 2014-15 (excluding Lanterman Developmental Center). Compared with last year's enacted budget, this includes an anticipated decline of 223 residents, 339.5 authorized state staff positions, and \$29.9 million (\$30.6 million GF) in funding.

California has served persons with developmental disabilities in state-owned and operated institutions since 1888. At its peak, the developmental center system housed over 13,400 individuals in seven facilities. Of the four remaining developmental centers, the oldest is Sonoma Developmental Center (1891) and the youngest is Fairview Developmental Center (1959).

Facility	Location	Year Opened	Population as of 3/12/14
Fairview Developmental Center	Costa Mesa	1959	320
Lanterman Developmental Center	Pomona	1927	80
Porterville Developmental Center	Porterville	1953	411 ²
Sonoma Developmental Center	Eldridge	1891	454
Canyon Springs Community Facility	Cathedral City	2000	52

The decline in developmental center use is consistent with the development of a community-based network of services and supports that promote successful integrated living in California communities and reflects national trends that support reduced reliance on institutions and greater support for community-based integrated services, directed in part by changes in state and federal law, and multiple court cases, including the United States Supreme Court's 1999 decision in *Olmstead v. L.C., et al.*

Numerous changes to the regional center planning and service development process have further reduced use of developmental centers. Person-centered planning has resulted in more appropriate and successful community-based services and supports for individuals who utilize regional center services. Additionally, regional centers have used an annual community planning and placement (CPP) allocation, \$67 million (total funds) in the current year, to develop community-based services and supports for individuals moving out of a developmental center, and to deflect new placements into developmental centers. On average, 175-200 individuals move out of developmental centers to the

² 168 residents in the Secure Treatment Program (STP); 243 residents outside the STP.

community each year.

Statutory changes adopted as part of the 2012-13 state budget, AB 89 (Committee on Budget), Chapter 25, Statutes of 2012, in part a response to a new trend of increasing developmental center placements, restricted new developmental center admissions, except under specified conditions, including commitments under the state's Incompetent to Stand Trial statute. Additionally, individuals who are in crisis can be placed temporarily at the Fairview Developmental Center.

The declining DC population, its aging infrastructure, and fixed costs has led to increasingly high per resident costs associated with maintaining this model of residential care.

Question for DDS:

- *Please briefly describe the budget proposal for developmental centers.*

ISSUE 1: Closure Process for Lanterman Developmental Center
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Governor's Budget: The Governor's budget for the Lanterman Developmental Center (LDC), which is in the process of transitioning its residents into community-based placements as part of a closure process, currently houses 80 residents³. The budget assumes a net decrease of \$22.7 million (\$12.0 million GF) related to position reductions, staff separation costs, enhanced staffing adjustments, and post-closure activities. LDC's residential population is expected to be zero by December 31, 2014.

Background: In January 2010, DDS proposed the closure of Lanterman Developmental Center (LDC), and a closure plan was adopted along with the Budget Act of 2010. The LDC closure plan borrowed heavily from the process employed to close Agnews Developmental Center (ADC), including the use of Adult Residential Facilities for Persons with Special Health Care Needs (ARFPSHN); improved health care through managed care plans for persons transitioning from LDC to the community; implementation of a temporary outpatient clinic at LDC to ensure continuity of medical care and services as individuals transfer to new health care providers; and the use of LDC staff to provide services in the community to former LDC residents. Since the approval of the closure plan, 261 LDC residents have transitioned to community living arrangements and 95 remain at LDC (as of February 1, 2014). The Governor's budget assumes all remaining residents will have transitioned to the community by January 1, 2015.

Prior to transition, a comprehensive assessment is conducted for each resident and services and supports are identified. The department and 12 regional centers involved in the closure process use Community Placement Plans as one tool to help them identify and develop necessary community-based resources. Selected community providers work closely with LDC staff to prepare for the transition.

As part of the transition, DDS visits consumers who have moved into community residences at five days, 30 days, 90 days, and six and 12 months after the move. Regional center staff also visits at regular intervals and provide enhanced case management for the first two years after the move. Special incidents, including hospitalizations and other negative outcomes, are tracked by DDS, and individuals who move from Lanterman into the community are asked to participate in a National Core Indicator (NCI) study. The NCI study uses a nationally validated survey instrument that allows DDS to collect statewide and regional center-specific data on the satisfaction and personal outcomes of consumers and family members.

The following chart describes the type of community placements that have occurred for LDC movers, as of February 1, 2014:

Community Care Facility (CCF)	231
Intermediate Care Facility (ICF)	12
Supported Living Services	5
Family Home/Other	2
Congregate Living Health Facility	2
Family Teaching Homes (FTH)	3
Long-Term Sub-Acute	6

³ Based on 3/14/14 census report

As of December 1, 2013, 230 of the 242 individuals who have moved from LDC (not including the six individuals in long-term sub-acute facilities), have a day service activity, as illustrated by the following chart.

Service Category	Program Types	Number participating
Community-based day service	Behavior management program; community integration training program; adult development center; adult day health center; community activities support services, creative arts program, activity center	176
Home-based day service	Day services provided by residential facility; in-home/mobile day program	38
Work Activity Program (WAP)	Rehabilitation WAP	5
Other	Program support group-day service; personal assistance; adaptive skills trainer; adult day care; day program incorporated into supporting living service.	11

Staffing: As of February 2, 2014, 708 employees remain at LDC. This includes the 88 enhanced positions provided in the 2012-13 budget. DDS implemented its first phase of staff reductions in January 2013. On March 5, 2014, DDS announced the second phase of staff reductions. DDS has provided various activities and supports to mitigate the impact of closure on LDC staff. These efforts include various employee forums, the establishment of a Staff Options and Resource Center on the LDC campus to provide computer work stations to assist in searching for employment and professional development, reference materials related to self-help and career development, postings for state and local employment opportunities, on-line courses for resume writing and job-seeking enhancement tools, for mock interviews, guest speakers, and career workshops. Additionally, LDC has worked with the California Employment Development Department’s Los Angeles County Rapid Response Coordinator and the Los Angeles Urban League Pomona WorkSource Center. The following chart shows the status of employee separation, as of December 1, 2013.

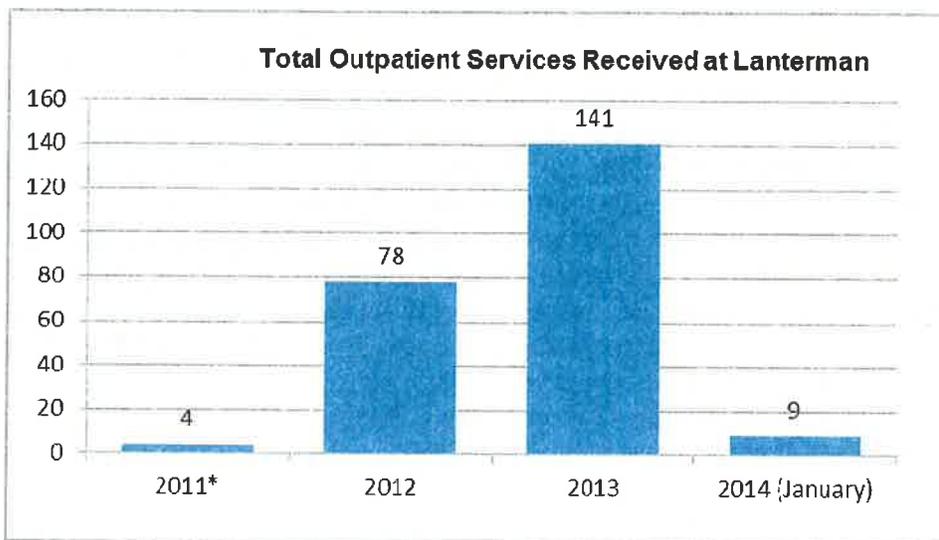
Transfer	286
Retirement	187
Resignation	85
Limited-Term Expired	8
Layoff	15
Other	32

The following chart shows employee separations by classification, as of December 1, 2013.

Level of Care Professional	69
Level of Care Nursing	276
Non-Level of Care	268

A component of the LDC closure process is the establishment of the Community State Staff (CSS) Program. As initially approved in SB 853 (Committee on Budget and Fiscal Review), Chapter 717, Statutes of 2010, this program authorized LDC employees to work in the community with former LDC residents, through a contract with a regional center or direct service provider, while remaining state employees, for up to two years following the closure of LDC. AB 89 (Committee on Budget), Chapter 25, Statutes of 2013, removed the two-year limitation. An employee survey conducted in October 2012 identified 102 employees who had interest in the CSS Program. However, as of March 14, 2014 only 12 employees have accepted positions through the CSS Program (four staff are currently working in the community; six staff have projected start dates within 30 days; two staff do not yet have start dates).

LDC Outpatient Clinic: SB 853 (Committee on Budget and Fiscal Review), Chapter 717, Statutes of 2010, authorized the operation of an outpatient clinic at LDC to provide health and dental services to individuals who move from LDC, in order to ensure the continuity of medical care as these individuals transfer to new health care providers in the community. This clinic will operate until DDS is no longer responsible for the property. The following chart⁴ shows the total services received at the LDC Outpatient Clinic.



⁴ DDS, March 11, 2014

Questions for DDS:

- *Please provide an update on the status of the LDC closure process.*
- *What are the characteristics of the remaining residents and what is their status relative to a selected community home?*
- *Please describe the utilization of the LDC clinic, compared to the utilization of the Agnews Developmental Center (ADC) clinic, during and following its closure.*
- *Please describe the Community State Staff Program. How has its utilization differed from the program established during the ADC closure?*
- *Please describe the layoff process, and the employment-related services provided to LDC staff.*
- *Once all residents have moved from LDC, what are the staffing requirements of LDC in warm shutdown? How long do you anticipate warm shutdown will last?*

ISSUE 2: Decertification of Sonoma Developmental Programs
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Governor's Budget: Sonoma Developmental Center (SDC) houses approximately 454⁵ residents with developmental disabilities. The decertification of four ICF units at SDC has cost the General Fund \$1.4 million in lost federal funds each month, for a total \$15.7 million in the current year. However, the Governor's budget assumes full federal financial participation will commence again in July 2014. DDS was provided an additional \$7 million (\$4 million GF) in the current year to implement a plan of correction. Budget year costs associated with the required plan are proposed to be \$9.2 million (\$5.1 million GF).

Background: State DC's are required to meet federal standards set by the federal Centers for Medicare and Medicaid Services (CMS), in order to receive federal financing participation under the Medicaid program. In January 2013, four out of 10 Intermediate Care Facility (ICF) units at Sonoma Developmental Center (SDC) were withdrawn from federal certification by DDS, in response to notice that the federal government was moving to decertify the larger group of ICF units. These actions came on the heels of widely reported revelations of multiple instances of abuse, neglect, and other lapses in caregiving at the institution. The loss of federal certification for these units at SDC, and the loss of associated federal funding, has cost the state General Fund approximately \$1.4 million each month. The chart below shows SDC population by facility type.

Sonoma DC Information	July 24 2013	Nov 1 2013	Feb. 1 2014
Total Population	483	469	460
In Nursing Facility (NF)	208	202	200
In Intermediate Care Facility (ICF)	275	267	260
In non-certified homes	103	97	95

In partial response to these quality-of-care concerns, the 2013-14 budget included a \$2.4 million increase (\$1.3 million GF) that would allow the facility to hire approximately 36 additional direct care staff, in order to allow staff who serve as shift leads to focus on supervision, without being counted toward required ratios of direct care staff to clients.

In March 2013, DDS entered into a Program Improvement Plan (PIP) agreement with the state Department of Public Health (DPH), which was accepted by the federal Centers for Medicare and Medicaid Services. As a condition of the PIP, DDS contracted with an outside consultant to conduct a root cause analysis of the problems at SDC and develop an action plan to ensure SDC is in compliance with federal and state licensing and certification requirements.

On October 31, 2013, the DPH accepted the SDC action plan and the Department of Finance submitted a request to the Joint Legislative Budget Committee for current year supplemental funding of \$3.6 million GF (\$7.2 million total funds). According to the Governor's budget, the full year costs associated with the action plan at SDC will be \$9.2 million (\$5.1 million GF). The action plan includes the opening of a new ICF unit, 118.5 new staff positions, three new wheelchair transport vehicles, and extensive staff training. Should these efforts sufficiently correct the identified deficiencies, federal financial participation will be restored. The Governor's budget assumes this will occur in July 2014.

⁵ Based on 3/14/14 census report

The charts⁶ below show the progress in hiring new staff and attrition of existing staff.

**New Hires
March 2013 - January 31, 2014**

Total Hires	New	RA's	Total	SDC Internal Hires
New LOC – Nursing	106	9	115	30
New LOC – Professional	23	3	26	1
New NLOC – Clinical	36	3	39	51
New NLOC - Administrative	26	4	30	39
Total	191	19	210	121

**Separations
March 2013 - January 31, 2014**

Separations	Total Separations
LOC – Nursing	81
LOC – Professional	18
NLOC – Clinical	33
NLOC - Administrative	20
Total	152

Despite these efforts, SDC’s licensed-to-unlicensed staff ratio remain well below that of other DC’s. SDC’s ratio was at 65 percent licensed to 35 percent unlicensed, as of January 1, 2014. LDC and PDC are at 83 percent licensed to 17 percent unlicensed and FDC is at 88 percent licensed to 12 percent unlicensed.

Legislative Analyst’s Office (LAO) Recommendation: The LAO finds it reasonable for the budget to assume restoration of federal funding beginning July 1, 2014, and finds the Governor’s “budget request to be reasonable and appropriate, as the funding will enable DDS to make improvements at Sonoma DC that are needed to restore federal funding and comply with federal certification requirements.” The LAO further recommends that “the Legislature require the department to report at budget hearings on its progress in implementing the changes at Sonoma DC, with particular attention to the status of filling needed positions for licensed medical professionals and other staff.”

⁶ DDS, 3/14/14

Questions for DDS:

- *Please briefly describe the circumstances that led to the decertification of the four ICF units at SDC.*
- *Please describe the requirements of the corrective action plan and progress toward implementation.*
- *Please discuss the challenges of reducing the SDC licensed-to-unlicensed staff ratio.*
- *Please describe the process for regaining certification and federal financial participation at SDC.*
- *What is the status of the comprehensive assessments required for all residents at SDC? How have these assessments informed placement decisions for residents, both within SDC and appropriateness for community placement?*
- *The problems identified by the licensing survey at SDC are not new to this facility. Have the changes that have been implemented in response to the action plan impacted the culture at SDC in a way that could result in sustainable improvements?*

ISSUE 3: Decertification Risk at Remaining Developmental Centers

Governor's Budget. Fairview Developmental Center (FDC) has approximately 320 residents⁷ with developmental disabilities. Porterville Developmental Center has approximately 411⁸ residents with developmental disabilities, 168 of which reside in the Secure Treatment Program (STP). Canyon Springs is a state-leased and operated ICD/MR residential facility. It serves approximately 52 residents⁹ with moderate to mild intellectual disabilities, who may have mental health treatment needs, and who are transitioning out of a developmental center.

Background: DPH recertification surveys at FDC, PDC, and LDC found ICF units at each facility to be out of compliance with federal requirements. Like the issues at SDC, areas of non-compliance include treatment plans, protection of residents, client health and safety, and client rights. In January, DDS and DPH reached an agreement to avoid decertification, and maintain federal funding of approximately \$4.1 million each month. The agreement will require the development of a root-cause analysis and action plan for PDC and FDC, similar to what was required at SDC. For LDC, the agreement requires DDS to contract with an independent monitor to provide oversight, among other requirements. The costs to implement these action plans are not yet known but anticipated to have both current year and budget year implications. The Governor's budget assumes DDS and DPH will resolve these issues and that no loss of federal funds will occur.

In January 2014, DPH conducted a recertification survey at Canyon Springs Residential Facility (CSRF) and found the facility to be out of compliance with federal requirements regarding resident protections and identified a number of deficiencies. On February 24, 2014, DDS was notified of DPH's intent to decertify CSRF. DDS has submitted a plan of correction to respond to the survey findings and an informal request for reconsideration to DPH.

Questions for DDS:

- *Please describe the issues that led to the DPH survey result findings at Fairview, Lanterman, and Porterville developmental centers and how they may have differed from the issues identified at Sonoma Developmental Center?*
- *Please describe the status of developing the root cause analysis and the action plan at Fairview and Porterville developmental centers. Does DDS anticipate there will be costs in the current year?*
- *Please provide the status of the required monitor at Lanterman Developmental Center. Will the monitor have a role or impact in the process of moving residents into community settings? Do you anticipate there will be current year costs?*
- *Please describe the issues identified in the recent non-compliance notice related to Canyon Springs residential facility. What types of actions are proposed in the plan of correction that has been submitted to DPH? What is the timeline for resolution of this issue?*

⁷ Based on 3/14/14 census report

⁸ Based on 3/14/14 census report

⁹ Based on 3/14/14 census report

ISSUE 4: Deferred Maintenance Projects

Governor's Budget: The Governor's budget provides \$100 million GF for deferred maintenance projects under specified departments. Of this amount, \$10 million is proposed to be allocated to DDS. The Governor proposes a new process (Control Section 6.10) for allocation of these funds that would require the Department of Finance (DOF) to review and approve department projects and submit to the Joint Legislative Budget Committee for review, 30 days prior to allocating the funds.

According to DDS, these funds will be used to replace or retrofit the boilers at SDC, FDC, and PDC. These boilers do not meet local air quality management regulations for emissions, and may be subject to fees. For example, PDC was billed an emissions fee of \$41,715 in 2012-13 for non-compliance, retroactive to 2009. The cost of replacing or retrofitting these boilers is estimated at \$10.7 million.

On March 20, 2014, the Senate Budget and Fiscal Review Subcommittee No. 4, voted unanimously to reject the proposed Control Section 6.10 and directed the Administration to come back with a proposal that allows the Legislature to approve funding for individual department's deferred maintenance projects through the regular budget process.

Concurrent with the release of the January budget, the Governor released his five-year infrastructure plan. This plan identifies no infrastructure needs for the state's developmental centers.

Questions for DDS:

- *Please describe the need for replacing or retrofitting the boilers at SDC, FDC, and PDC. What are the ramifications of not replacing the boilers?*
- *Although the Governor's five-year infrastructure plan does not identify any infrastructure needs at the state developmental centers, these facilities range in age from 55 to 126 years old. What significant infrastructure or delayed maintenance needs will need to be addressed in the near future?*
- *Has the infrastructure at these facilities been updated to optimize new technologies? For example:*
 - *Do electrical systems fully support the needs of residents and staff?*
 - *Are security and medical emergency alert systems updated?*
 - *Does facility design reflect licensing and certification requirements for new facilities? For example, would the dorm-like design in many residential units, where bedrooms are separated by partial walls, meet existing licensing requirements?*

**ISSUE 5: CA Health and Human Services Agency Report on the Future of
Developmental Centers – Presentation by Secretary Diana S. Dooley**

On January 13, 2014, the Secretary of the California Health and Human Services Agency released her “*Plan for the Closure of Developmental Centers in California*” (Plan). The Plan was developed pursuant to trailer bill language adopted last year that required the Secretary to submit to the Legislature a master plan for the future of DCs by November 15, 2013; and to submit to the Legislature, by January 10, 2014, the Administration’s resulting plans to meet the needs of all current residents in DCs. The Plan submitted January 13th meets the requirements of the master plan; however, more specific plans to implement the recommendations of the master plan have not yet been submitted.

The Plan was developed in consultation with a task force comprised of a broad cross-section of system stakeholders, including individuals with developmental disabilities, family members, regional center directors, consumer rights advocates, labor representatives, legislative representatives, and DDS staff. The Plan provides six consensus recommendations of the task force and the Secretary, as follows:

“Recommendation 1: More community style homes/facilities should be developed to serve individuals with enduring and complex medical needs using existing models of care.

Recommendation 2: For individuals with challenging behaviors and support needs, the State should operate at least two acute crisis facilities (like the program at Fairview Developmental Center), and small transitional facilities. The State should develop a new “Senate Bill (SB) 962 like” model that would provide a higher level of behavioral services. Funding should be made available so that regional centers can expand mobile crisis response teams, crisis hotlines, day programs, short-term crisis homes, new-model behavioral homes, and supported living services for those transitioning to their own homes.

Recommendation 3: For individuals who have been involved in the criminal justice system, the State should continue to operate the Porterville DC-STP and the transitional program at Canyon Springs Community Facility. Alternatives to the Porterville DC-STP should also be explored.

Recommendation 4: The development of a workable health resource center model should be explored, to address the complex health needs of DC residents who transition to community homes.

Recommendation 5: The State should enter into public/private partnerships to provide integrated community services on existing State lands, where appropriate. Also, consideration should be given to repurposing existing buildings on DC property for developing service models identified in Recommendations 1 through 4.

Recommendation 6: Another task force should be convened to address how to make the community system stronger.”

Questions for the Secretary and/or DDS

- *The 2012-13 budget trailer bill required the submission of two documents: a master plan and a subsequent, more detailed, plan to meet the needs of current DC residents. Are you anticipating submitting the more detailed plan with the May Revision?*
- *How do you think existing resources, such as CPP funds, can be better utilized to support these recommendations?*
- *What statutory changes will be necessary to support these recommendations?*
- *Previous discussions about maintaining clinic and specialized equipment resources of the developmental centers have been thwarted by concerns of maintaining federal funding. Yet to some degree, this issue was partially resolved with the limited continuation of the clinics, post-closure, at Agnews Developmental Center. Is the agency or department exploring how this issue can be resolved to the benefit of community members who would benefit from these resources?*
- *Fairview Developmental Center is the site of an existing public/private partnership providing integrated services on existing state lands (Harbor Village). A second project at Fairview has stalled due to concerns raised by the Department of General Services. Is DDS working with the Department of General Services to resolve these concerns so this project, and potentially others like it, can move forward?*
- *The final recommendation of the report calls for another task force. What do you envision will be the role of this task force and the time frame for it to complete its work?*

Staff Comment and Recommendation: Leave OPEN the DC budget, pending May Revision.

Community Services

Services and supports for eligible persons with developmental disabilities and their families are provided through nonprofit private corporations, known as regional centers, that contract with DDS. There are 21 regional centers located throughout California, serving caseloads ranging from 3,035 to 26,996. Regional centers provide diagnosis and assessment of eligibility at no charge. Eligible individuals and their families are assigned a case manager or service coordinator to help develop a plan for services and supports, pursuant to an individual program plan, and assist in locating the necessary service providers in order to implement the plan.

Although most services and supports are free, regardless of age, parents whose adjusted gross family income is at or above 400% of the federal poverty level (FPL), and who are receiving qualifying services through a regional center for their children under the age of 18, may be assessed an Annual Family Program Fee (AFPF). Additionally, there is a requirement for parents to share the cost of 24-hour out-of-home placements for children under the age of 18. There may also be a co-payment requirement for other selected services.

Governor's Budget: The Governor's budget includes \$4.6 billion (\$2.6 billion GF), to serve 273,643 individuals in the community, an increase of \$255.3 million (\$155.2 million GF) over the enacted 2013-14 budget. The following chart illustrates proposed changes in the DDS community services budget.

	Enacted 2013-14 Budget	Adjusted 2013-14 Budget	Proposed 2014-15 Budget	Requested
Operations (OPS)	\$562,059,000	\$563,801,000	\$579,183,000	\$17,124,000
Purchase-of- Services (POS)	\$3,799,754,000	\$3,802,307,000	\$4,037,874,000	\$238,120,000
Early Start/Part C: Other Agency Costs	\$17,606,000	\$17,829,000	\$17,698,000	\$92,000
Prevention Program	\$2,003,000	\$2,003,000	\$2,003,000	\$0
Total	\$4,381,422,000	\$4,385,940,000	\$4,636,758,000	\$255,336,000

The Governor's budget projects a total regional center community caseload of 273,643 as of January 31, 2015, an increase of 8,546 (3.1 percent) over the 2013-14 enacted budget. The following chart shows changes in regional center caseloads.

	Enacted 2013-14 Budget	Revised 2013-14 Budget	Governor's Budget	Change
Active (aged 3 and older)	234,702	234,702	241,748	7,046
Early Start (Birth through 2 years)	30,395	31,007	31,895	1,500
Total	265,097	265,709	273,643	8,546

ISSUE 1: Regional Center Operations

The Governor's budget provides \$579.2 million (\$407.5 million GF) for regional center operations (OPS), an increase of \$17.1 million (\$25.2 million GF) over the enacted 2013-14 budget. This reflects an increase in core staffing funding of \$13.6 million; an increase in community placement plan (CPP) staff funding of \$.9 million; a decrease in the savings target related to staffing of \$2.1 million; a decrease in staff funding related to the LDC closure of \$.9 million; an increase in funding for case managers necessary to meet federal Home and Community-Based Services (HCBS) waiver requirements of \$.5 million; and relatively small increases to contracts for Client Rights Advocacy Services, Quality Assessments, Direct Support Professional Training, and the Foster Grandparent/Senior Companion Programs. Additionally, the Governor's budget provides a small increase to address the minimum wage change. Generally, increases in the regional center OPS budget over the last several years have primarily reflected increases in caseload and requirements associated with federal funding.

Adjustment for Early Start Eligibility Reductions. The 2009-10 budget act included reductions in the Early Start Program (discussed later in this agenda). An associated reduction of \$2.1 million (GF) in the regional center operations budget was made in 2010-11. It is unclear at the time of finalizing this agenda, what occurred in fiscal years 2011-12 and 2012-13. The Governor's budget includes a \$2.1 million GF increase to correct this error in the budget year, and moving forward.

Questions for DDS:

- *Please clarify in what fiscal years this double-counting occurred and when DDS became aware of it.*

Unallocated Reductions. Throughout the years of budget reductions, regional center operations have been asked to absorb unallocated reductions, specifically, \$10.6 million in 2001-02 and \$5.4 million in 2011-12. These reductions have been cumulative and are proposed for continuation in the budget year. In addition to unallocated reductions, regional centers operations budgets have been reduced in multiple years to reflect savings associated with various "cost containment measures" implemented to reduce expenditures.

Questions for DDS:

- *How has DDS monitored the impact of these reductions on the quality and stability of regional center services funded through the operations budget?*

Core-Staffing Formula. A core staffing formula is the primary driver of regional center funding. With few exceptions, this formula has not been updated since 1991. As a result, regional centers are provided funding for positions that is far below what they are actually paying. For example, the core staffing formula provides \$60,938 for a regional center executive director position when, in fact, regional centers are paying between a low of \$123,787 and a high of \$279,732 (excluding benefits, retirement, bonuses, and other allowances). Other examples of core staffing formula allocations for key positions are highlighted in the following chart:

Position	Core-Staffing Formula Allocation
Physician	\$79,271
Behavioral Psychologist	\$54,972
Client Program Coordinator	\$34,032
High-Risk Infant Case Manager	\$40,805
Chief Counsel	\$46,983
Human Resources Manager	\$50,844

Additionally, as regional center administration requirements have changed pursuant to new laws, regulations or contractual requirements, the staffing formula has not always been adjusted to reflect these new responsibilities.

Questions for DDS:

- *Why hasn't the core staffing formula been updated?*
- *What has the impact of the outdated core staffing formula, and other regional center OPS reductions, had on the ability of regional centers to meet required caseload staffing ratios?*
- *Does the department assess how the core staffing formula relates to current hiring practices of regional centers, recruitment and retention rates, and whether existing regional center staff complements are sufficient to meet regional center contractual and legal obligations?*

Community Placement Plans (CPP). The Governor's budget provides \$68.3 million (\$55.3million GF) in CPP funding, an increase of \$865,000 (\$2.4 million GF) over the enacted 2013-14 budget. Under the CPP process, regional centers provide a plan to DDS, based on their estimates of the resources necessary for individuals moving from a developmental center to the community in a given fiscal year, and for individuals at risk of placement in a developmental center. CPP-funded regional center activities include resource development, assessments, placement, crisis service teams, and program start-up, as well as traditionally funded services and supports for the first year of placement.

In response to concerns that regional centers were lagging in providing timely comprehensive assessments of developmental center residents, the Legislature required all such assessments be completed by December 31, 2015. According to DDS, 48 percent of all initial comprehensive assessments have been completed, and are being updated during the IPP. According to DDS, based on

regional center projections, 75 percent of current DC residents will have had their initial assessment completed by June 30, 2014.

Questions for DDS:

- *Please walk through the process for determining the amount of CPP appropriated each year and how allocations are made to regional centers.*
- *How does DDS determine the number of assessments each regional center should accomplish in a given fiscal year and when those assessments should occur?*
- *How does DDS ensure that the service and support needs identified in a comprehensive assessment are identified or developed so the value of the assessment remains current and serves the purpose for which it was conducted?*
- *How were CPP funds utilized to support the closures of Agnews and Lanterman developmental centers, and did this impact residents in other DCs who were appropriate for moving to the community?*
- *How is utilization of CPP funds monitored and success measured?*
- *What happens when a regional center does not meet its goals relative to CPP funding?*
- *What happens to unspent CPP at the end of a fiscal year?*

Issue 2: Purchase-of-Services (POS)

The Governor's budget provides \$4.038 billion (\$2.225 billion GF) for the purchase of services (POS) in community settings by regional centers. This is an increase of \$238.1 million (\$130.1 million GF) over the enacted 2013-14 budget. Regional centers purchase services for consumers and their families from approved vendors, based on needs identified through a person-centered planning process. Generally, regional centers first seek to coordinate the provision of a service through private insurance or through a "generic" service provided by other state, county, or city agencies, school districts, or other agencies. There is little limitation on the types of services and supports a regional center may purchase due to the individualized need determination process, but the majority of regional center-purchased services and supports are residential care provided in a community care or health facility or support services for individuals in supported living arrangements; day and work programs; transportation; respite; health and behavioral health services.

There are multiple ways that rates are set for providers of community-based services. These include, but are not limited to:

- Rates set by DDS, based on cost statements.
- Rates established in statute or regulation.
- Rates established by negotiation between a regional center and a provider.

Minimum Wage Increase. Assembly Bill 10 (Alejo), Chapter 351, Statutes of 2013, increases the state minimum wage from \$8.00 to \$9.00, effective July 1, 2014; and increases it again to \$10.00, effective July 1, 2016. The Governor's budget provides an increase of \$110.1 million (\$69.3 million GF) in POS to reflect this change.

Although the Administration has not provided detailed documentation on the assumptions behind this proposed funding increase, draft trailer bill language (TBL) would allow minimum wage adjustments to (1) work activity programs, community-based day programs, and in-home respite service agencies that demonstrated to DDS that they employ minimum wage workers; and, (2) providers who have a rate negotiated with a regional center if they demonstrate to the regional center that they employ minimum wage workers. Additionally, the Governor's budget includes minimum wage increases of \$3.6 million for supported employment programs (SEP). However, after further consideration, DDS has determined that it does not have enough visibility into the composition of the SEP hourly rate to know whether a minimum wage increase is warranted. Therefore, they have withdrawn proposed TBL for SEP, and will adjust funding in the May Revision.

Provider organizations argue that the Governor's proposal falls short of making adjustments to reflect the real impact the minimum wage increase will have on their programs. For example, providers cite California Labor Code § 515 as requiring certain supervisory staff to be paid twice the minimum wage under defined circumstances. They additionally argue that a minimum wage increase necessitates increases for staff above the minimum wage to maintain the differentials earned through seniority and promotion within their agencies.

Legislative Analyst's Office (LAO) Recommendation: The LAO recommends approval of the Governor's proposal to provide \$110 million for DDS compliance with the new minimum wage requirements. They further recommend the Legislature create a separate appropriation to fund this expenditure to ensure funds are used for the intended purpose.

Questions for DDS:

- *Please describe how the minimum wage adjustment will be allocated and approved across program types?*
- *How was this level of appropriation determined?*
- *Please describe how you determine which service categories would be eligible for this increase?*
- *For programs with regional center negotiated-rates, how will you ensure the adjustments are implemented as you intend?*

Federal Overtime Changes: The United States Department of Labor recently made regulatory changes to federal Fair Labor Standards (FLSA) to require overtime compensation for service providers previously exempt. Among the services purchased by regional centers, supported living programs, in-home respite programs, and personal assistance services will likely be impacted. The Governor's budget provides \$7.5 million (\$4 million GF) to address this federal change.

Pursuant to the proposed trailer bill language submitted by the Administration, the Governor's budget would provide a 2.25 percent rate increase for in-home respite service agencies; personal assistants and supported living services (SLS). According to DDS, this level of funding increase is intended to support the hiring of additional staff to ensure employees do not work overtime, except in emergency circumstances. Additionally, many regional center consumers also receive services from In-Home Supportive Services (IHSS) workers. The impact of FLSA on IHSS services was discussed at a previous subcommittee hearing.

DDS states that it based the 2.25 percent rate increase on the fact that the Department of Social Services (DSS) anticipates 1.5 percent of expenditures will be attributed to overtime in the IHSS program and because there are unique difference between IHSS and regional center services, such as the need for 24 hour care in SLS and personal assistant services, that will drive costs up for regional centers.

For regional center consumers who rely on both IHSS and a regional center-funded service that utilize the same worker, this issue may be particularly complex. There is, yet unresolved, concern that the overtime rule may apply across the IHSS and regional center systems, if the same worker is employed in both systems. Even if this is not the case, it is possible that the Administration's approach to prohibit the payment of overtime in most circumstances could result in shifting costs to regional centers. For example, if a worker who currently provides 50 hours in the IHSS services to a consumer, and another 20 hours as a regional center-funded personal assistant to the same consumer, will the prohibition of overtime in IHSS result in additional pressure to increase hours paid by the regional center? Additionally, as generic services, such as IHSS, are generally utilized first, the cost of overtime

for an individual who uses both IHSS and regional center services, when necessary in an emergency situation, may be more likely to fall on the regional center.

Legislative Analyst's Office (LAO) Recommendation: The LAO finds it reasonable to assume that vendors will incur increased administrative costs to mitigate the fiscal impact of overtime pay for home care workers. However, because of data limitations, the LAO is uncertain whether a 2.25 percent rate increase is the right amount. They therefore recommend that the department report to the Legislature on the results of the rate increase on impacted vendors in order to assess whether a 2.25 percent increase is the right amount on an ongoing basis.

Questions for DDS:

- *Please describe the fiscal assumptions behind your estimate.*
- *Does DDS believe there is an issue for individuals who are employed by both the IHSS and regional centers relative to when overtime requirements are triggered?*
- *Does DDS know how many regional center consumers will be impacted by the changes in IHSS overtime?*
- *Does DDS know how many regional consumers utilize a family member for IHSS and/or regional center-funded services that will be impacted by changes in overtime?*
- *How does DDS envision "emergencies" to be defined relative to the payment of overtime.*
- *Has DDS assessed the capacity of SLS, In-home respite, and personal assistant services to hire additional workers?*
- *Is DDS concerned about the impact on consumers who utilize family members as providers of these deeply personal services?*

Impact of Multi-Year Reductions on Community Services and Supports. Most community-based service providers have not received a rate increase since 2006. Residential care providers (ARM), day programs, and traditional work programs received a three percent rate reduction in February 2009, which expired in July 2012. These providers receive an additional rate reduction of 1.25 percent in July 2010, which expired in July 2013. Since 2008, providers whose rate is set through negotiations with individual regional centers have had their rate limited to the median rate for the year 2007. These providers were also subject to the three percent and 1.25 percent rate reductions discussed above. Supported work providers, whose rate is set in statute, received a 24 percent rate increase in 2006, but it was subsequently reduced 10 percent in 2008.

Other changes further skewed the relationship between costs and reimbursement rates. These include:

- Exceptions to rate freezes, and reductions, justified through a "health and welfare" waiver.
- Prohibition on use of POS for program "start-up" costs.
- Implementation of a uniform holiday schedule.

- Implementation of addition administrative functions, including required audits, for providers.

Although these actions may have provided necessary fiscal relief to the state budget, the cumulative impact has been to substantially distort the relationship between rates paid for services and the actual cost of these services and, in some cases, have created a disparity in payments to programs providing similar services. Additionally, system preferences for service models have changed in the ensuing years but rates have not changed to reflect the costs of these new, preferred models. For example, ARM rates are based on six-person homes. However, regional centers increasingly prefer four person homes. Likewise, smaller day and work programs are generally viewed as more effective than the larger, congregate models.

Questions for DDS:

- *How does the wide variation in current rate-setting methodologies, and the effect of the rate freezes and rate reductions that have occurred in past years, impact the ability to measure appropriateness of rates and their impact on the quality and stability of community-based services?*
- *Do you have any concerns that the rate reduction scheduled to be imposed on Intermediate Care Facilities for Persons with Developmental Disabilities (under the DHCS budget) will have an impact the access to, or stability of, these services?*

Early Start Program. The Early Start Program was established in 1993, in response to federal legislation ensuring that early intervention services to infants and toddlers with disabilities and their families are provided in a coordinated, family-centered system of services that are available statewide. Provided services are based on a child's assessed developmental needs and the family's concerns and priorities, as determined by each child's Individualized Family Service Plan (IFSP) team.

In 2009, the Legislature adopted significant changes to the Early Start Program in order to reduce expenditures by \$41.5 million (GF). These changes included:

- Removing "at-risk" infants and toddlers under 24-months from eligibility.
- Requiring toddlers aged 24-months or greater to have more significant delays across a large number of domains in order to be eligible for services.
- Discontinuation of the provision of services in the Early Start Program that are not required by the federal government, with the exception of durable medical equipment. The services no longer provided are child care, diapers, dentistry, interpreters, translators, genetic counseling, music therapy, and respite services not related to the developmental delay of the infant or toddler.

As a part of the changes to the Early Start Program, a prevention program was established for infants and toddlers who are "at risk" but no longer qualify for the Early Start Program. The Prevention Program provides safety net services (intake, assessment, case management, and referral to generic agencies) for eligible children from birth through 35 months. In 2011, DDS proposed, and the Legislature adopted, additional changes to the Prevention Program. Specifically, the required functions of the program were limited to information, resource, outreach, and referral and the program

was transferred from the regional centers to the Family Resource Centers, through a contract with DDS.

Questions for DDS

- *Can you quantify the number of infants and children who have been denied services due to the changes adopted in 2009?*
- *How does DDS measure impact of reductions on access, quality of services, system pressures that may emerge later for infants and children who are denied services?*

Insurance Co-Pays and Deductibles. The 2013-14 state budget included trailer bill language to allow regional centers to make health insurance co-pays and co-insurance payments, on behalf consumers and their families, for the services identified as necessary in an IPP, under defined circumstances. Specially, these payments may be made when:

- a. It is necessary to ensure that the consumer receives the service or support.
- b. When health insurance covers the service in whole or part.
- c. When the consumer or family has income that does not exceed 400 percent of the federal poverty level (FPL).
- d. When there is no third party who is liable to pay the cost.

Under extraordinary circumstances, when needed to successfully maintain the child at home or adult consumer in the least restrictive setting, regional centers may make these payments for individuals and families who exceed the income threshold. At the time of adoption, DDS estimated that roughly 50 percent of consumers or families have incomes below 400 percent of FPL.

The adopted trailer bill also prohibited pay by regional centers of insurance deductibles (the amount the insured must spend on covered health services before insurance benefits can be utilized), as it can be difficult to link insurance deductibles to a specific service or family member.

Prior to adoption of this trailer bill, there was inconsistency across regional centers as to when and if they would pay insurance-related costs. Some regional centers paid all the costs of co-pays, co-insurance and insurance deductibles, without reference to consumer or family income, for services identified as necessary in an IPP. Others paid only certain portions of these insurance costs, while still others paid no insurance costs. The regional centers that paid these insurance costs did so under the assumption that, without such insurance coverage, the full cost of the service would fall to the regional center to pay.

The discussion around standardizing policies for the payment of insurance co-pays, co-insurance, and insurance deductibles was triggered by the shift of payment responsibility for behavioral health treatment from regional centers to private insurers following the passage of SB 946 (Steinberg), Chapter 650, Statutes of 2011. This new law requires insurers and health plans to provide coverage of behavioral health treatment for persons with autism spectrum disorders (ASD). As these services may be required with great frequency, often 3-5 times per week, the amount of insurance co-pays, co-

insurance and insurance deductibles requested to be paid for by regional centers increased significantly.

For many families, who had no share-of-cost when the service was funded by the regional center, the insurance-related costs they are required to pay can be substantial.

Regional centers were provided an appropriation of \$9.9 million (GF) to cover the costs of insurance co-pays and co-insurance for the 2013-14 budget year, and the same amount is proposed for the budget year. At a recent hearing of the Senate Select Committee on Autism and Related Disorders, DDS reported that in the first six months of this fiscal year, approximately \$1.9 million had been spent on co-pays and co-insurance for all health services. Of that, \$240,000 appeared to be for behavioral health treatment for persons with ASD. However, DDS cautions that this data is incomplete due to the short time period since enactment of the budget trailer bill and associated implementation of new uniform reporting sub-codes for regional centers.

Questions for DDS:

- *Even if the data is incomplete at this time, do you think it is likely that regional centers will utilize the full \$9.9 million appropriation in the current year on insurance co-pays and co-insurance payments for eligible consumers and families? If not, what is your best estimate?*
- *Can you estimate the cost of including insurance deductibles as an allowable regional center purchase, under the same restrictions placed on the payment of co-pays and co-insurance?*
- *Can you ascertain the savings associated with the avoidance of full service costs due to the payment of co-pays and co-insurance?*
- *Do you know the number of consumers/families who qualified under the extraordinary circumstances exception?*

Staff Comment and Recommendation: Leave OPEN the community services budget, pending May Revision.

AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 1 ON HEALTH AND HUMAN SERVICES

ASSEMBLYMEMBER SHIRLEY N. WEBER, PH.D., CHAIR

WEDNESDAY, MARCH 19, 2014
1:30 P.M. - STATE CAPITOL ROOM 4202

ITEMS TO BE HEARD		
ITEM	DESCRIPTION	
4300	DEPARTMENT OF DEVELOPMENTAL SERVICES	
ISSUE 1	PROGRAM AND BUDGET OVERVIEW	1
ISSUE 2	STATE DEVELOPMENTAL CENTERS (DCs), INCLUDING: <ul style="list-style-type: none"> • GOVERNOR'S BUDGET PROPOSALS FOR 2014-15 • FUTURE OF DCs TASK FORCE • REVIEW OF DC ISSUES • ISSUES RAISED BY ADVOCATES 	6
ISSUE 3	COMMUNITY SERVICES ISSUES, INCLUDING: <ul style="list-style-type: none"> • GOVERNOR'S BUDGET PROPOSALS FOR 2014-15 • ISSUES RAISED BY ADVOCATES 	15
5160	DEPARTMENT OF REHABILITATION	
ISSUE 1	PROGRAM AND BUDGET OVERVIEW	20
ISSUE 2	BUDGET CHANGE PROPOSALS (BCPs) FOR DOR: <ul style="list-style-type: none"> • CALIFORNIA PROMISE INITIATIVE GRANT • TRAUMATIC BRAIN INJURY (TBI) SUPPLEMENTAL FUNDING 	22

ITEMS TO BE HEARD

4300 DEPARTMENT OF DEVELOPMENTAL SERVICES

Please see the "Panel" listing at the end of this entire DDS section (at the end of Issue 3) for guidance on how DDS will be presented and discussed in the course of the hearing.

ISSUE 1: PROGRAM AND BUDGET REVIEW

The Governor's Budget includes \$5.2 billion total funds (\$2.9 billion General Fund) for the Department in 2014-15; a net increase of \$221.8 million above the updated 2013-14 budget, a 4.5 percent increase.

The Department of Developmental Services (DDS) is responsible under the Lanterman Developmental Disabilities Services Act of 1969 (Lanterman Act) for ensuring that approximately 267,042 persons with developmental disabilities receive the services and support they require to lead more independent and productive lives and to make choices and decisions about their lives. The Lanterman Act defines a developmental disability as a "substantial disability" that starts before age 18 and is expected to continue indefinitely. The developmental disabilities for which an individual may be eligible to receive services under the Lanterman Act include: cerebral palsy, epilepsy, autism, intellectual disabilities, and other conditions closely related to intellectual disabilities that require similar treatment (such as a traumatic brain injury).

The Department ensures coordination of services to persons with developmental disabilities; ensures that such services are planned, provided, and sufficiently complete to meet the needs and choices of these individuals at each stage of their lives; and, to the extent possible, accomplishes these goals in the individual's home community. The Department's goals are to:

- Expand the availability, accessibility, and types of services and supports to meet current and future needs of individuals and their families.
- Develop systems to ensure that quality services and supports are provided.
- Facilitate the dissemination of information to improve services and supports and the lives of people with developmental disabilities.
- Ensure the Department, state Developmental Centers (DCs), regional centers, and service providers comply with all applicable federal and state laws, regulations and contracts, including accounting for their funding in an appropriate manner.

Overview of Department's Major Areas. California provides services and support to individuals with developmental disabilities in two ways. The vast majorities of people live in their families' homes or other community settings and receive state-funded services that are coordinated by one of 21 non-profit corporations known as regional centers (RCs). More than 99 percent of DDS consumers receive services in this way under the Community Services Program. These consumers live with their parents or other relatives, in their own houses or apartments, or in residential facilities or group homes designed to meet their needs. A smaller number of individuals, or less than 1 percent of the DDS caseload, live in four state-operated DCs and one state-operated community facility. The population for the current and budget years is expected to change as follows:

- The number of consumers with developmental disabilities in the community served by regional centers is estimated to increase from 265,709 in the current year to 273,643 in 2014-15.
- The number of consumers living in state-operated residential facilities is estimated to be 1,049 in 2014-15 from the estimated 1,186 in 2013-14.

Community Services Programs. Through the network of RCs, the Department supports the development and maintenance of services for eligible persons with developmental disabilities who reside in the community. The regional centers directly provide or coordinate the following services and supports: (1) information and referral, (2) assessment and diagnosis, (3) counseling, (4) lifelong individualized planning and service coordination, formalized into an Individual Program Plan (IPP), (5) purchase of necessary services included in the IPP, (6) assistance in finding and using community and other resources, (7) advocacy for the protection of legal, civil, and service rights, (8) early intervention services for infants and their families, (9) family support, (10) planning, placement, and monitoring for 24-hour out-of-home care, (11) training and educational opportunities for individuals and families, (12) community education about developmental disabilities, and (13) habilitation services.

The DDS provides RCs with an operations budget in order to conduct these activities. The DDS also provides RCs with a budget to purchase services from vendors for an estimated 265,709 consumers in 2013-14. These services can include day programs, transportation, residential care provided by community care facilities, and support services that assist individuals to live in the community. The RCs purchase more than 100 different services on behalf of consumers. As the payer of last resort, RCs generally only pay for services if an individual does not have private insurance or if the RC cannot refer an individual to so-called "generic" services such as other state-administered health and human services programs for low-income persons or services that are generally provided at the local level by counties, cities, school districts, or other agencies. The majority of consumers receiving services through the Community Services Program are enrolled in Medi-Cal, California's Medicaid program.

DDS monitors regional centers to ensure they operate in accordance with statute, regulations, and their contract with the Department.

Developmental Centers Program. DDS operates four DCs: Fairview (Orange County), Lanterman (Los Angeles County), Porterville (Tulare County), and Sonoma (Sonoma County). Secure treatment services are provided at Porterville DC. In addition, DDS leases one small facility for persons who require specialized behavioral interventions: Canyon Springs, a 63-bed facility in Cathedral City. Services at all facilities involve the provision of active treatment through residential and day programs on a 24-hour basis, including appropriate medical and dental care, health maintenance activities, and assistance with activities of daily living, training, education, and employment.

The primary objectives of the DCs include providing care, treatment, and habilitation services in the most efficient, effective, and least restrictive manner to all individuals referred to the DCs by the regional centers, and/or the judicial system; and providing services to individuals that ensure increased independence, maintenance or improvement of health and welfare, and enhanced personal competence and effectiveness in all areas of daily living.

The Developmental Centers Division provides central administrative and clinical management services to the four DCs and the leased small community facility to ensure the quality of services, compliance with state licensing and federal certification requirements, protection of consumers and staff, and maintenance of facility structures and grounds. Areas of responsibility include the development of policy and procedures for all aspects of the DCs operations, law enforcement and protective services, facility population management, program and fiscal oversight, and facilities planning and support.

Budget Context. During a period of recent budget deficits, the Legislature enacted numerous DDS budget reductions and cost savings measures to yield General Fund savings, such as rate changes and provider payment reductions for RC vendors, service changes, and reliance on increased federal funding. The provider payment reductions experienced by RC vendors, including the 3 percent reduction in 2009-10, the 4.25 percent reduction in both 2010-11 and 2011-12, and the 1.25 percent reduction in 2012-13, have expired with no new provider payment reductions proposed for 2014-15. However, rates paid to providers established by statute or by the department have generally been frozen since 2003-04.

Rates negotiated by the RCs for new providers were limited beginning in 2008 to no higher than the median rate for that service. Certain RC programs and services have experienced further ongoing reductions. In 2008-09, the Supported Employment Program provider rates were cut by 10 percent (after having been increased by 24 percent in 2006-07) and remain at that level with no restorations proposed for 2014-15.

In 2009-10, a number of ongoing reductions were made to the Early Start program, which provides services to infants and toddlers under the age of three who have a developmental disability (and prior to 2009-10, to children who were at-risk for a developmental disability). Also in 2009-10, the DDS suspended the availability of certain services, including social/recreation activities, camping services and associated travel, educational services for school-aged children, and certain nonmedical therapies. The Governor's budget does not propose any restorations for the Early Start program or for the suspended services.

The reductions sustained in DDS over the past several years are listed below, as provided by the Department:

- 2009-10 - \$517.0 million (\$460.1 GF)
- 2010-11 - \$251.2 million (\$227.1 GF)
- 2011-12 - \$339.8 million (\$255.3 GF)
- 2012-13 - \$240.4 million (\$257.0 GF)

Fiscal Overview. The budget proposes \$5.2 billion (all funds) for DDS in 2014-15, which is a 4.5 percent net increase over estimated revised expenditures in 2013-14. General Fund expenditures for 2014-15 are proposed at \$2.9 billion, a net increase of \$132 million, or 4.7 percent, over estimated revised expenditures in 2013-14. This net increase in total expenditures generally reflects increases in the budget for the Community Services Program, partially offset by decreasing costs in the DCs Program budget.

Fund Source	2012-13	2013-14	2014-15	BY to CY Change	% Change
	Actual	Projected	Proposed		
General Fund	\$2,655,676	\$2,797,370	\$2,929,511	132,141	4.7%
General Fund, Proposition 98	6,190	5,708	5,179	(529)	(9.3)
Developmental Disabilities Program Development Fund	5,061	6,194	6,129	(65)	(1.0)
Developmental Disabilities Services Account	-	150	150	-	0
California State Lottery Education Fund	330	403	403	-	0
Federal Trust Fund	54,974	52,303	52,296	(7)	(0.01)
Reimbursements	2,085,261	2,119,032	2,209,236	90,204	4.3
Mental Health Services Fund	1,128	1,128	1,176	48	4.3
Total Expenditures	\$4,808,620	\$4,982,288	\$5,204,080	221,792	4.5%
Positions	4,739.7	5,285.0	4,846.0	(439)	(8.3)

**GOVERNOR'S BUDGET PROPOSAL FOR
2014-15**

- **FFP Staffing.** DDS requests \$160,000 (\$108,000 General Fund) to convert 1.0 CEA II, Assistant Deputy Director, Office of Federal Programs and Fiscal Support, position from limited-term to permanent. The CEA II position was originally established in 2010-11 as a two-year limited-term position pending further review of workload associated with federal funding requirements. In 2012-13 the position was approved as limited-term for an additional two years. On May 10, 2013, CalHR approved the permanent establishment and level of this CEA position based on the ongoing workload associated with maintaining federal funding of approximately \$1.8 billion.

DDS states that this request is consistent with state level policy to achieve federal financial participation (FFP) where possible, and to maintain existing federal funding. As the budget assumes significant amount of FFP in the DDS budget in the current and budget year, DDS is asking for this resource to work with the federal Centers for Medicaid and Medicare Services (CMS) and demonstrate the administrative/operational infrastructure and capacity to carry out administrative duties and provide guidance and monitoring of the community system to ensure compliance with federal requirements.

Staff Recommendation:

Staff recommends holding this issue open, as with all of the DDS items, for action at a later hearing.

ISSUE 2: STATE DEVELOPMENTAL CENTERS

The DDS operates four 24-hour facilities known as DCs -- Fairview DC in Orange County, Lanterman DC in Los Angeles County, Porterville DC in Tulare County, and Sonoma DC in Sonoma County -- and one smaller leased community facility (Canyon Springs in Riverside County), which together provide 24-hour care and supervision to approximately 1,300 consumers in 2013-14. Each DC is licensed by the Department of Public Health (DPH), and certified by DPH on behalf of CMS, as Skilled Nursing Facilities, Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID), and General Acute Care hospitals.

The DCs are licensed and certified to provide a broad array of services based on each resident's individual program plan, such as nursing services, assistance with activities of daily living, specialized rehabilitative services, individualized dietary services, and vocational or other day programs outside of the residence. The DCs must be certified in order to receive federal Medicaid funding. The vast majority of DC residents are enrolled in Medi-Cal. Generally, for Medi-Cal enrollees living in DCs, the state bears roughly half the costs of their care and the federal government bears the remainder. Over the past 15 years, the DCs have faced a history of problems identified by oversight entities, such as DPH and the United States Department of Justice, including inadequate care, insufficient staffing, and inadequate reporting and investigation of instances of abuse and neglect.

Budget-related legislation enacted in 2012-13 imposed a moratorium on new admissions to DCs, with exceptions for individuals involved in the criminal justice system and consumers in an acute crisis needing short-term stabilization.

GOVERNOR'S BUDGET PROPOSALS FOR 2014-15

The budget proposes \$526 million (all funds) for the DCs Program in 2014-15, which is a 5.4 percent net decrease below estimated revised expenditures in 2013-14. General Fund expenditures for 2014-15 are proposed at \$275 million, a net decrease of \$31 million, or 10 percent, below estimated revised expenditures in 2013-14.

- **Employee Compensation Changes and Statewide Fleet Reduction.** Net increase of \$6.9 million (\$4.3 million GF) due to Control Sections for employee compensation increases approved through the collective bargaining process, changes in retirement contribution rates, and savings from Executive Order B-2-11 Fleet Reduction.
- **Sonoma DC Program Improvement Plan (PIP).** \$9.2 million (\$5.1 GF) and 118.5 position increases for continuing costs into 2014-15 at Sonoma DC for the PIP to ensure the facility is in compliance with federal and state licensing and certification requirements.

- **DC Population Decrease Staffing Adjustments (Excluding Lanterman).** -\$12.8 million (-\$7.2 GF) decrease for population staffing adjustments at the DCs for Level of Care (LOC) 114.0 and Non-Level of Care (NLOC) 55.0 (excluding Lanterman DC).
- **Lease Revenue Debt Service Adjustment.** \$2.8 million (\$2.8 GF) increase due to Control Section 4.30 for an adjustment to the Lease Revenue Debt Service.
- **Restoration of Federal Reimbursements at Sonoma DC.** \$15.7 million funding shift from the general fund to reimbursement to eliminate the GF backfill in 2013-14 for the four Sonoma ICF units withdrawn from the Medicaid Provider Agreement to ensure continued federal funding for the remaining six ICF units.
- **Reduction in the Lottery Education Funds.** -\$62,000 decrease due to a reduction in the Lottery Education Funds.
- **Foster Grandparents Program Funding Transfer.** -\$0.3 million (-\$0.2 GF) decrease to transfer funding from Foster Grandparents Program to Community Services.
- **Lanterman Closure Activities.** Net decrease of -\$22.7 million (-\$12.0 GF) for Lanterman closure activities as detailed below.
- **Lanterman DC Closure Update.** The Governor's Budget continues to support Developmental Center and Community efforts towards closure of the Lanterman facility on December 31, 2014. The Department, working with regional centers, anticipates the transition of approximately 120 Lanterman DC residents in FY 2013-14. The Governor's Budget anticipates the transition of another 22 residents to community living arrangements in FY 2014-15 with the anticipated resident population being zero on December 31, 2014, with the closure of the facility.

In addition to the Control Sections impacting the Lanterman DC, the Governor's Budget reflects a net decrease in 2014-15 of -\$22.7 million (-\$12.0 million GF) for position reductions due to the Lanterman DC closure, staff separation costs, enhanced staffing adjustments, and post-closure activities. The reduced funding is the net of the following adjustments:

- \$33.7 million (-\$18.5 GF) decrease and -317.0 position reductions with the anticipated residential population being zero on December 31, 2014;
- \$11.8 million (\$6.4 GF) increase to support numerous activities with the closure of the facility and separation of staff;
- -\$2.3 million (-\$1.2 GF) and -40.0 positions reduction of Enhanced Staff that are no longer needed for closure related activities beginning July 1, 2014;

- -\$2.0 million (-\$1.1 GF) reduction of half year funding for the remaining 48.0 Enhanced Staff Positions to support costs during the closure period of July 1, 2014 through December 31, 2014; and
 - \$3.5 (\$2.4 GF) and 68.0 position increase for post-closure related activities. This funding is for the period from January 1, 2015 through June 30, 2015.
- **Headquarters.** The Governor's Budget proposes Headquarters operations funding for FY 2014-15 of \$40.7 million (\$25.9 million GF), an increase of \$1.4 million (\$.9 million GF) compared to the FY 2013-14 enacted budget. The Headquarters budget increase is composed of the following:
 - \$.5 million (\$.3 GF) increase due to employee compensation increases approved through the collective bargaining process and changes in retirement contribution rates.
 - \$0.9 million (\$0.6 GF) increase due to the *Vendor Audit Positions* Budget Change Proposal (BCP) that requests 7.0 limited-term auditor positions to assist with the increased demand for vendor audits and the associated recovery of funds from reduced vendor fraud, waste, and abuse.
 - Conversion of 1.0 limited-term Career Executive Assignment, Assistant Deputy Director position to 1.0 permanent full-time in the Office of Federal Programs and Fiscal Support, Community Services Division, at no additional costs.
 - **Deferred Maintenance.** The Governor's Budget provides \$10 million for DDS as part of an overall \$100 million funding effort for various state agencies to address critical infrastructure deferred maintenance needs. The Legislative Analyst's Office (LAO) reports that it is their understanding that the funds will be used to replace boilers at Sonoma DC and Porterville DC and retrofit boilers at Fairview DC to ensure compliance with emissions regulations established by local Air Quality Management Districts. More detail on the proposed use of these funds has been requested of DDS, but not yet received by the Subcommittee.

FUTURE OF DCs TASK FORCE

Since the 1960s, with the passage of the Lanterman Act, the role of the DCs has been changing. The resident population has dropped from a high in 1968 of 13,400, with thousands on a waiting list for admission, to 1,335 residents as of January 1, 2014. The population at each of the four facilities, originally designed to serve between 2,500 and 3,500 individuals, is now below 500. Additionally, the trailer bill to the 2012-13 budget imposed a moratorium on admissions to DCs except for individuals involved in the criminal justice system and consumers in an acute crisis needing short-term stabilization.

Each year Community Placement Plan (CPP) funding (\$67 million in 2013-14) is provided to regional centers to expand and improve services to meet the needs of DC residents transitioning to the community. As new CPP-funded resources become available, on average 175 to 200 consumers move out of a DC into community-based services each year. With the CPP funding provided in FY 2011-12 through 2013-14, DDS projects that over 500 new residential beds will be available for DC movers during the next 18 months. The moratorium, coupled with CPP placements and prior changes in the service delivery system, has reduced the reliance on State-operated DCs and expedited the decline in resident population in these facilities.

Responding to advocates across the DDS system, the Assembly discussed these issues during the subcommittee process. Health and Human Services Agency (HHS) Secretary Diana Dooley announced in May that the Agency was seeking the creation of a task force to review DC issues. The Legislature formalized this with the passage of Assembly Bill 89 (Chapter 25, Statutes of 2013), which required reports to be issued to the Legislature. HHS released a report titled "Plan for the Future of Developmental Center In California" on January 13, 2014 including six recommendations, summarized below.

1. More community style homes and facilities should be developed to serve individuals with enduring and complex medical needs using existing models of care.
2. The State should operate at least two acute crisis facilities, like the Fairview DC program, and small transitional facilities. The State should develop a new "SB 962" like model that will provide a higher level of behavioral services. Funding should be made available so that regional centers can expand mobile crisis response teams, crisis hotlines, day programs, short-term crisis homes, new-model behavioral homes, and supported living services for those transitioning to their own homes.
3. For individuals who have been involved in the criminal justice system, the State should continue to operate the Porterville DC-STP and the transitional program at Canyon Springs Community Facility. Alternatives to the Porterville DC-STP should also be explored.
4. The development of a workable health resource center model should be explored to address the complex health needs of DC residents who transition to community homes.
5. The State should enter into public/private partnerships to provide integrated community services on existing State lands, where appropriate. Also, consideration should be given to repurposing existing buildings on DC property for developing service models identified in recommendations 1-4.
6. Another task force should be convened to address how to make the community system stronger.

Overall, the message of the report is that the DCs will need to transition from large congregate 24-hour nursing and Intermediate Care Facility services to a new model.

The recommendations of this Task Force are that the future role of the State is to operate a limited number of smaller, safety-net crisis and residential services coupled with specialized health care resource centers and public/private partnerships, as well as the Porterville DC - Secure Treatment Program (STP) and the Canyon Springs Community Facility.

A primary question for the administration from the Legislature and stakeholders is how the Governor's budget will operationalize the recommendations set forth by the work of the Task Force.

REVIEW OF DC ISSUES

Decertification Issues. The state's DCs undergo annual recertification surveys conducted by DPH to ensure that the facilities meet federal requirements for receipt of federal Medicaid funds. The Governor's Budget includes \$9.2 million (\$5.1 million General Fund) to reflect anticipated costs related to the ongoing implementation of the Sonoma Developmental Center Program Improvement Plan. The Plan was entered into on March 13, 2013 with the California Department of Public Health and the Centers for Medicare and Medicaid Services (CMS) to bring the facility back into compliance with federal requirements. DDS is currently working with Public Health and CMS on certification actions at the Fairview, Porterville and Lanterman Developmental Centers and recently announced that it entered into an agreement specifying a path to resolving these certification issues. The specific plan for each of the three DCs will dictate the amount of state funding, if any, needed to make improvements to avoid federal decertification and the loss of federal Medicaid funds. As of this writing, the timing for the completion of a specific plan for each of the three DCs is uncertain. Additional state resources may be required to make improvements at each of the three DCs.

Lanterman, Fairview, and Porterville Developmental Centers are licensed as General Acute Care Hospitals and provide supplemental services as distinct part skilled nursing facilities (SNF) and distinct part Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF-IID, also called "ICFs" in this document): these developmental centers in their distinct part ICF-IID serve 70,188 and 172 clients respectively. The pending decertification actions only apply to the distinct part ICF-IID. If decertified, a DC would not be eligible for federal funding for services provided in the distinct part ICF-IID. The pending actions do not impact the licenses of the DCs, so services would continue to be provided to residents.

DC Ongoing Monitoring and Progress Report. Below is the Subcommittee staff's attempt to capture the current situation and issues of highest importance for the Assembly to track. Staff recommends that the DDS and LAO be asked to continue to utilize this chart as a baseline to create a continuing tool and regular progress check-in document for the DCs as oversight continues in the coming months and budget years.

DC	High-Level Profile	Recent History / Current Situation / Future Milestones
Fairview DC, located in Orange County	2013-14 In-Center Pop. = 319 2014-15 In-Center Pop. = 276 Change from Current Year (CY) to Budget Year (BY) = -43 (-14%) Open Units as of Jan. 2013: Nursing Facilities (NFs) = 7 Intermediate Care Facilities (ICFs) = 9	<ul style="list-style-type: none"> • 2013 DPH annual recertification survey identifies four federal compliance issues under the following Conditions of Participation: Client Protection, Health Care Services, Active Treatment, and Governing Body. Two situations in Aug. 2013 were labeled "Immediate Jeopardy (IJ)," since abated. • 8 ICF units were impacted. • January 16, 2014 - DPH and DDS reached agreements that will enable Fairview, to retain federal Medicaid funding while it makes improvements to meet federal standards. • Fairview will implement improvements based on an action plan specific to the DC, to be developed through an independent review by outside experts on the root cause of deficiencies and action items to prevent the deficiencies.
Lanterman DC, located in Los Angeles County	2013-14 In-Center Pop. = 82 2014-15 In-Center Pop. = will decrease to 0 by 12/31/14 Open Units as of Jan. 2013: NFs = 3 ICFs = 8	<ul style="list-style-type: none"> • Scheduled to close by December 31, 2014. • 22 consumers expected at the start of the 2014-15 fiscal year. • 2013 DPH annual recertification survey identifies three federal compliance issues under the following Conditions of Participation: Client Protection, Active Treatment, and Governing Body. There was one IJ case during the Sept. 2013 survey, since abated. • 5 ICF units were impacted. • January 16, 2014 - DPH and DDS reached agreements that will enable Fairview, to retain federal Medicaid funding while it makes

DC	High-Level Profile	Recent History / Current Situation / Future Milestones
		<p>improvements to meet federal standards.</p> <ul style="list-style-type: none"> An independent monitor will oversee the facility's closure to ensure the health and safety of the remaining consumers.
<p>Porterville DC, located in Tulare County</p>	<p>2013-14 In-Center Pop. = 416</p> <p>2014-15 In-Center Pop. = 376</p> <p>Change from CY to BY = -40 (-10%)</p> <p>Open Units as of Jan. 2013: NFs = 3 ICFs = 17</p>	<ul style="list-style-type: none"> 2013 DPH annual recertification survey identifies federal compliance issues 2013 DPH annual recertification survey identifies six federal compliance issues under the following Conditions of Participation: Client Protection, Health Care Services, Active Treatment, Facility Staffing, Physical Environment, and Governing Body. There were five IJ situations (one in July 2013 and four in Oct. 2012), since abated. 7 ICF units were impacted. January 16, 2014 - DPH and DDS reached agreements that will enable Fairview, to retain federal Medicaid funding while it makes improvements to meet federal standards. Porterville will implement improvements based on an action plan specific to the DC, to be developed through an independent review by outside experts on the root cause of deficiencies and action items to prevent the deficiencies.
<p>Sonoma DC, located in Sonoma County</p>	<p>2013-14 In-Center Pop. = 449</p> <p>2014-15 In-Center Pop. = 400</p> <p>Change from CY to BY = -49 (-11%)</p> <p>Open Units as of Jan. 2013: NFs = 11 ICFs = 10</p>	<ul style="list-style-type: none"> July 2012 – recertification survey conducted by DPH identifies health and safety issues at Sonoma DC. Dec. 2012 – DPH announces I is taking significant action to protect Sonoma DC residents due to deficient practices. Jan. 2013 – DDS voluntarily withdraws four ICF units from federal certification with GF backfill (\$16 M loss of federal funds in 2013-14, \$7 M in 2012-13). Jan. 2014 – DDS requests and JLBC approves \$7 M (\$4 M GF) for unanticipated costs of implementing the action plan

DC	High-Level Profile	Recent History / Current Situation / Future Milestones
		<p>beginning in 2013-14, enabling the following improvements:</p> <ul style="list-style-type: none"> ○ Increase of \$4 million (\$2.1 million General Fund) to augment staffing levels for licensed medical professionals and other staff including: psychiatrists; direct care staff, such as registered nurses, licensed vocational nurses, and psychiatric technicians; rehabilitation, occupational, and physical therapists; speech pathologists; office technicians; and independent program coordinators. The augmentation provides for 112 new positions (which includes 8 positions secured through contracts). ○ Increase of \$2.7 million (\$1.5 million General Fund) to provide a one-time enhanced training to all ICF staff and to pay overtime costs to backfill direct care staff attending training. ○ Increase of \$400,000 (\$200,000 General Fund) to open a new ICF living unit to decrease the population in existing ICF units and reduce aggressive incidents between clients. The opening of a new ICF unit does not require a capital outlay expenditure. Some of the additional direct care staff positions will staff the new ICF unit. ○ Increase of \$100,000 General Fund to purchase three additional wheelchair-accessible vehicles so each ICF living unit at Sonoma DC has access to transportation for community outings or on-campus transport. <ul style="list-style-type: none"> ● Gov's 2014-15 proposed budget requests \$9 M (\$5 M GF) for full-year costs of implementing the action plan. ● March 30, 2014 is earliest possible date for the four decertified units to attain certification; Gov's budget assumes that lost federal funds of \$16 M will be restored beginning July 1, 2014.
<p>Canyon Springs, located in Riverside</p>	<ul style="list-style-type: none"> ● 2013-14 In-Center Pop. = 58 ● 2014-15 In-Center Pop. = 58 ● Change from CY to BY = 0 	

DC	High-Level Profile	Recent History / Current Situation / Future Milestones
<i>County (leased community facility)</i>		
<i>Total DC Population</i>	<ul style="list-style-type: none"> • Pop. was 2,877 in 2006-07 • Average annual decline is 10.4 percent • Pop. is 1,242 in 2013-14 • Pop. is estimated to decrease by 132 consumers in 2014-15, for a total caseload of 1,110 in BY • Percentage change from CY to BY = -11% 	

ISSUES RAISED BY ADVOCATES

Below is a representation of some of the input and feedback that was submitted for the Subcommittee for consideration on the DC issues:

- **Lanterman Coalition Support of Task Force Recommendations.** The Lanterman Coalition submitted a letter endorsed by 17 stakeholder organizations stating that given challenges associated with institutional models of care and a decreasing census in DCs, the cost of supporting each individual DC continues to rise and is unsustainable. Additional costs associated with the correction of deficiencies and deferred maintenance of aging facilities highlight the need to focus available resources on developing community resources, which is consistent with the recommendations in the DC Task Force report. The Coalition calls on the Legislature to direct DDS to develop a plan to implement the recommendations of the Developmental Center Task Force.
- **Comprehensive Assessments.** The needs of individuals who reside in state-operated facilities are assessed and community resources are developed to assist those who can appropriately transition to the community. Advocates have requested a status report from the administration on how many of the comprehensive assessments have been completed for all DC consumers. The Subcommittee is in receipt of some of this information for the first two quarters of 2013-14. Staff suggests that the Subcommittee recommend that the administration convene stakeholders prior to May 1 to provide information on how it has progressed toward the statutory requirement for comprehensive assessment of each DC consumer, and what its plans are for continuing to work to ensure that all initial assessments are completed no later than December 31, 2015.

Staff Recommendation:

Staff recommends holding all of the DC issues open, as with all of the DDS items, for action at a later hearing.

ISSUE 3: COMMUNITY SERVICES ISSUES

The budget proposes \$4.7 billion (all funds) for the Community Services Program in 2014-15, which is a 5.7 percent net increase over estimated revised expenditures in 2013-14. Of this total, \$580 million is proposed for RC operations expenditures and the remainder of \$4.1 billion is for the purchase of services from RC vendors. General Fund expenditures for the Community Services Program in 2014-15 are proposed at \$2.6 billion, a net increase of \$162 million, or 6.5 percent, above the estimated revised expenditures in 2013-14. This net increase mainly reflects caseload growth and greater utilization of services, along with rising costs for vendors as a result of the state-mandated increase in the hourly minimum wage and recent federal labor regulations impacting home care workers.

GOVERNOR'S BUDGET PROPOSALS FOR 2014-15

- **Caseload and Utilization.** \$138.6 million increase (\$82.9 million GF) in regional center operations (OPS) and purchase of services (POS) to reflect caseload and utilization due to updated population and expenditure data including HCBS Waiver enrollment above budgeted levels.
- **Regional Center Operations Adjustment.** \$2.1 million increase GF in OPS to reflect an adjustment to correct the double counting of savings related to the 2009-10 Early Start Eligibility savings proposal.
- **Impacts from Other Departments.** -\$3.1 million GF decrease in POS to reflect the Department of Health Care Services restoration of Enteral Nutrition and partial restoration of Adult Dental Services as a Medi-Cal Optional Benefit.
- **Minimum Wage Increase.** In accordance with Assembly Bill (AB) 10 (Alejo), Chapter 351, Statutes of 2013 which increases the minimum wage from \$8.00 to \$9.00 effective July 1, 2014, provides a \$0.1 million (\$0.1 million GF) increase in OPS due to the minimum wage increase will impact positions in regional center Core Staffing that are budgeted at salary levels that are below \$9.00; and \$110.1 million (\$69.3 million GF) increase in POS applies to services which rely on employees that are paid minimum wage.
- **Federal Overtime Change.** \$7.5 million (\$4.0 million GF) increase in POS to reflect the impact of regulatory changes in the United States Department of Labor Fair Labor Standards to include overtime compensation for service providers that previously were not required to pay overtime effective, January 1, 2015.
- **Vendor Audits.** DDS requests \$897,000 (\$605,000 General Fund) for 7.0 two-year, limited-term auditor positions to meet workload associated with increased demand for vendor audits and associated recovery of funds. The implementation of the Department's whistleblower process, coupled with the fraud, waste, and abuse

identified during recent audits, requires additional auditing resources to ensure the adequate oversight and review of provider billings.

DDS states that this proposal is consistent with the current policies, priorities, and initiatives of the administration in that it ensures increased accountability within the DDS system of services and supports and ensures that funds that have been improperly disbursed are remitted back to the state. For a number of years, DDS has maintained and supported the need for increased accountability of its vendor community; therefore, the requesting positions are consistent with the Department's Strategic Plan concerning accountability. The potential revenue generated from additional audit staff could increase recoveries from \$6.9 million to \$11.7 million or more per fiscal year.

ISSUES RAISED BY ADVOCATES

Below is a representation of some of the input and feedback that was submitted for the Subcommittee for consideration on the Community Services issues:

- **Restore Early Start.** Disability Rights California (DRC) and the Association of Regional Center Agencies (ARCA) have both written encouraging restoration of Early Start funding to pre-2009 levels. They state that the reductions and changes in eligibility criteria resulted in children not receiving early treatment and adequate, appropriate services. Responding to requests from advocates, in 2013, the Assembly took action in the subcommittee process to restore eligibility for services to infants and toddlers who have a 33 percent delay in one domain (rather than continuing to require greater delays of 50 percent in one domain, or 33 percent in two or more domains, consistent with changes made as part of 2009 budget cuts). This change required a reinvestment of \$12 million General Fund and would have been effective October 1, 2013.

Early Start provides early intervention and support services to families with about 30,000 infants and toddlers who have a developmental delay or disability, or an established risk condition with a high probability of resulting in a delay. The issue went to Budget Conference Committee and ultimately did not receive any additional funding in 2013-14.

- **Promote System Sustainability.** The Lanterman Coalition and ARCA have written regarding the service delivery system, including the Regional Centers and vendored provider agencies, and contend that the system is currently unable to provide services and supports needed to protect health and safety and support integration into the mainstream life of the community. Advocates request a five percent annual increase in provider rates and regional center operations budgets as a "down payment" to ensure system stability until DDS arrives at a cost-based rates and budgeting system.

- **Promote Work for Adults with Developmental Disabilities.** The Lanterman Coalition requests a ten percent increase to Supported Employment Programs as a way to provide an effective path to employment. Inadequate funding of supported work and job development services has led to a decline in employment for Californians with developmental disabilities. Advocates contend that employment is by far the best option to insure that DD consumers are integrated into the mainstream life of the community.
- **Remove Regional Center Prohibition on Paying for Co-Pay and Deductibles.** The Lanterman Coalition and ARCA have written regarding the provision of timely behavioral supports to persons with Autism Spectrum Disorders (ASD). These services have allowed for integration into the mainstream life of the community, while reducing the long term cost of supports for persons with ASD. The requirement that private insurance companies fund behavioral supports to persons with Autism has been successful in reducing costs to the state for those services. Unfortunately, advocates contend, the prohibition on payment of deductibles and restriction on payment of co-payments has resulted in families having to choose between dropping their insurance coverage or discontinuing essential services due to their inability to afford the cost of the deductible or co-pays. They state that in some cases the cost to regional centers can be even more than the cost of paying these co-pays and deductibles. These advocates urge the legislature to remove the language prohibiting the payment of deductibles attributed to behavioral services and remove the limitations on covering co-payments for behavioral supports. To further exacerbate the problem, when children transitioned out of the Healthy Families Program into Medi-Cal many lost access to Applied Behavioral Analysis services. Therefore, these stakeholders additionally recommend California cover medically necessary Behavioral Health Treatment for Medi-Cal beneficiaries.
- **Invest in Family Caregivers.** Services provided under the Lanterman Act allow individuals to live in natural settings of their choice. Over 70% of Californians with developmental disabilities are supported in their family home, many with the assistance of services such as In-Home Supportive Services (IHSS) and regional center funded respite. These services allow families to maintain individuals at home at a significant cost savings to the state. Limitations on the number of respite hours that regional centers can authorize combined with the Governor's proposal to limit each IHSS worker's hours to 40 per week will stretch many families' emotional and financial resources to the point that maintaining the individual in the family home is no longer feasible. The Lanterman Coalition asks that the Legislature determine respite hours based only on the needs of each family and to allow chosen IHSS workers to provide the necessary hours of assistance to each individual.
- **Revisit Past Policy Changes.** The Lanterman Coalition also asks for the repeal of trailer bill language that imposed fiscal audit requirements on agencies with budgets below \$2 million and the parental fee that advocates contend costs more to determine and collect than generates savings. There are also requests from advocates to revisit the number of holidays required for RCs.

- **Additional Requests from DRC.** DRC also writes with requests for the Subcommittee to consider adverse impacts for some children in the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program whose nursing home hours at age 21 make them vulnerable to losing services. DRC also writes to request restoration of a state supplement for the IHSS share of cost for certain recipients and with a proposal to equalize funding for institutions and community-based services to eliminate institutional bias. This and other proposals continue to be reviewed by Subcommittee staff.

The next page lists the panel that will address each of the issues in this DDS section.

DDS PANEL FOR ALL ISSUES**Special Guest**

- Secretary Diana Dooley, California Health and Human Services Agency

Department Program and Budget Overview

- Santi Rogers, Director, Department of Developmental Services

Developmental Centers Issues and Budget

- Patricia Flannery, Deputy Director, Developmental Centers Division, Department of Developmental Services
- Legislative Analyst's Office
- Department of Finance
- Tony Anderson, Executive Director, The Arc California and Chair, Lanterman Coalition
- Catherine Blakemore, Executive Director, Disability Rights California

Community Services Issues and Budget

- Nancy Bargmann, Deputy Director, Community Services Division, Department of Developmental Services
- Legislative Analyst's Office
- Department of Finance
- Rick Rollens, Legislative Advisor to the Association of Regional Center Agencies
- Will Sanford, Executive Director, Futures Explored and Chair, California Disability Services Association, Budget Committee

Public Comment

Staff Recommendation:

Staff recommends holding all DDS issues open pending further consideration and the May Revision.

State of California HEALTH AND HUMAN SERVICES AGENCY



DIANA S. DOOLEY
SECRETARY

January 13, 2014

The Honorable Darrell Steinberg
President Pro Tempore
California State Senate
State Capitol Building, Room 205
Sacramento, CA 95814

The Honorable John A. Pérez
Speaker of the Assembly
California State Assembly
State Capitol Building, Room 219
Sacramento, CA 95814

Aging

Child Support
Services

Community Services
and Development

Developmental
Services

Emergency Medical
Services Authority

Health Care Services

Managed Health Care

Managed Risk
Medical Insurance Board

Office of Patient Advocate

Office of System
Integration

Public Health

Rehabilitation

Social Services

State Hospitals

Statewide Health
Planning and
Development

Dear Senator Steinberg and Assembly Member Pérez:

Pursuant to the commitment I made last spring to address the declining population in the developmental centers, the resulting fiscal pressures, the challenges of maintaining federal certification in aging facilities and the repeated calls to close these facilities immediately, and to fulfill the requirements of Section 14(a) of Assembly Bill (AB) 89 (Chapter 25, Statutes of 2013), I respectfully submit the enclosed Plan for the Future of Developmental Centers in California.

To begin this effort, I invited a broad cross-section of seasoned leaders committed to meeting the needs of people with developmental disabilities to serve on a Task Force to identify challenges, gather facts, share opinions and seek opportunities for improvement. The Task Force included consumers, family members, regional center directors, consumer rights advocates, labor union members, community service providers, and staff from the Department of Developmental Services. At the outset, there was great division and very little expectation that any consensus could be reached but throughout the six months of intense inquiry and effort, there was a unifying commitment that the well-being of each and every developmental center resident was at the center of our work.

By keeping our focus on the residents and through the open, honest and candid sharing of information and opinions, the full Task Force agreed to present this report and its six recommendations on behalf of us all. Some of the parents and some of the unions have qualified their support to be clear that they do not support any implication that the centers should be closed but the commitment to the need for fundamental transformation of the developmental centers system is shared by all.

I have been humbled and inspired by the understanding I have gained through the work of this Task Force. The Administration is committed to the goals set forth in this report and will continue the active stakeholder engagement that contributed so significantly to this work as we move forward with its implementation.

Respectfully,

A handwritten signature in cursive script that reads "Diana S. Dooley".

Diana S. Dooley
Secretary

cc: Senator Leland Yee, Chair, Senate Human Services Committee
Senator Tom Berryhill, Vice Chair, Senate Human Services Committee
Senator Mark Leno, Chair, Senate Budget & Fiscal Review Committee
Senator Jim Nielsen, Vice Chair, Senate Budget & Fiscal Review Committee
Senator Kevin De León, Chair, Senate Appropriations Committee
Senator Mimi Walters, Vice Chair, Senate Appropriations Committee
Assembly Member Mark Stone, Chair, Assembly Human Services Committee
Assembly Member Brian Maienschein, Vice Chair, Assembly Human Services Committee
Assembly Member Nancy Skinner, Chair, Assembly Budget Committee
Assembly Member Jeff Gorell, Vice Chair, Assembly Budget Committee
Assembly Member Mike Gatto, Chair, Assembly Appropriations Committee
Assembly Member Frank Bigelow, Vice Chair, Assembly Appropriations Committee
Senator William Monning
Senator Mark DeSaulnier
Assembly Member Shirley Weber
Assembly Member Wesley Chesbro
Assembly Member Mariko Yamada, Chair, Aging and Long Term Care Committee
Gail Gronert
Mareva Brown
Brendan McCarthy
Ryan Guillen
Indira McDonald
Jackie Wong
Myesha Jackson
Nicole Vasquez
Peggy Collins
Robert MacLaughlin
Joe Parra
Kirk Feely
Mary Bellamy
Julie Souliere
Daphne Hunt
Ginni Bella
Rashi Kesarwani

PLAN FOR THE FUTURE OF DEVELOPMENTAL CENTERS IN CALIFORNIA

*Report to the Legislature
Submitted pursuant to Assembly Bill 89, Section 14(a)
(Chapter 25, Statutes of 2013)*

Submitted by the
California Health and Human Services Agency
On behalf of the Task Force on the Future of Developmental Centers
1600 9th Street, Room 460
Sacramento, California 95814

January 13, 2014

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EXECUTIVE SUMMARY

Since the 1960s, with the passage of the Lanterman Developmental Disabilities Services Act (Lanterman Act), the role of the State-operated Developmental Centers (DC) has been changing. The resident population has dropped from a high in 1968 of 13,400, with thousands on a waiting list for admission, to 1,335 residents as of January 1, 2014. The population at each of the four facilities, originally designed to serve between 2,500 and 3,500 individuals, is now below 500, with Fairview DC at 318 residents and Lanterman DC at 101. Additionally, the trailer bill to the 2012-13 budget imposed a moratorium on admissions to DCs except for individuals involved in the criminal justice system and consumers in an acute crisis needing short-term stabilization.

Each year Community Placement Plan (CPP) funding (\$67 million in Fiscal Year {FY} 2013-14) is provided to regional centers to expand and improve services to meet the needs of DC residents transitioning to the community. As new CPP-funded resources become available, on average 175 to 200 consumers move out of a DC into community-based services each year. With the CPP funding provided in FY 2011-12 through 2013-14, over 500 new residential beds will be available for DC movers during the next 18 months.

The moratorium, coupled with CPP placements and prior changes in the service delivery system, has reduced the reliance on State-operated DCs and expedited the decline in resident population in these facilities.

Without intervention, the role of the State in delivering direct services is rapidly diminishing. With the input and assistance of the Task Force, the State now has an opportunity to define and manage the transition from historically large congregate living facilities to more integrated and specialized services using the expertise and resources of the DCs to benefit the consumers.

The DCs will need to transition from large congregate 24-hour nursing and Intermediate Care Facility services to a new model. The recommendations of this Task Force are that the future role of the State is to operate a limited number of smaller, safety-net crisis and residential services coupled with specialized health care resource centers and public/private partnerships, as well as the Porterville DC - Secure Treatment Program (STP) and the Canyon Springs Community Facility.

Following are the six consensus recommendations endorsed by the Task Force with the qualifications and exceptions set forth in the attached letter from the Sonoma DC Parent Hospital Association (PHA), the California Association of Psychiatric Technicians (CAPT), and the California Statewide Law Enforcement Association (CSLEA).

- Recommendation 1: More community style homes/facilities should be developed to serve individuals with enduring and complex medical needs using existing models of care.
- Recommendation 2: For individuals with challenging behaviors and support needs, the State should operate at least two acute crisis facilities (like the program at Fairview DC), and small transitional facilities. The State should develop a new "Senate Bill (SB) 962 like" model that would provide a higher level of behavioral services. Funding should be made available so that regional centers can expand mobile crisis response teams, crisis hotlines, day programs, short-term crisis homes, new-model behavioral homes, and supported living services for those transitioning to their own homes.
- Recommendation 3: For individuals who have been involved in the criminal justice system, the State should continue to operate the Porterville DC-STP and the transitional program at Canyon Springs Community Facility. Alternatives to the Porterville DC-STP should also be explored.
- Recommendation 4: The development of a workable health resource center model should be explored, to address the complex health needs of DC residents who transition to community homes.
- Recommendation 5: The State should enter into public/private partnerships to provide integrated community services on existing State lands, where appropriate. Also, consideration should be given to repurposing existing buildings on DC property for developing service models identified in Recommendations 1 through 4.
- Recommendation 6: Another task force should be convened to address how to make the community system stronger.

The Administration is committed to these goals and will continue the active stakeholder engagement that contributed so significantly to this work through an approach modeled on the Agnews DC closure. The design and implementation of a fundamental transformation of the remaining DCs is essential and must proceed as quickly as possible.

III.

TASK FORCE RECOMMENDATIONS FOR FUTURE SERVICES FOR DEVELOPMENTAL CENTER RESIDENTS

When the Task Force on the Future of Developmental Centers began, there was broad recognition of the importance of defining the future for the DC residents. Their future was changing by virtue of the long historical trend toward community integration, now critically influenced by the moratorium on DC admissions (AB 1472 [Chapter 25, Statutes of 2012]). With the DC population declining, the per-resident costs of the DCs are dramatically increasing, and the DCs are no longer sustainable in their current design. Concurrently, the acuity level of the remaining population is increasing, thereby requiring an overall higher level of specialized care. The Task Force was charged to identify viable long-term service options for the health and safety of the DC residents and to ensure that appropriate quality services are available, accessible, and cost efficient for the benefit of the individuals as well as the system generally.

Extensive data was provided to the Task Force regarding the individuals served in the DCs and those with similar needs living in the community; the services provided to these individuals; the resources available in a DC and in the community; and budget and fiscal information (See Attachments 4 and 5). The Task Force grouped DC residents into three primary categories: those with enduring and complex medical needs; individuals involved in the criminal justice system; and residents with significant behavioral support needs. For each group, the Task Force considered existing community services as well as gaps in specialized services in the community. Additionally, the Task Force considered the overarching issue of access to specialty health care services and issues regarding the land and resources at a DC.

The Task Force agreed that there are some fundamental principles that are integral to any transition of a DC resident. These principles include: 1) individual service needs must be based on a comprehensive person-centered planning process; 2) services must be provided in the least restrictive environment appropriate for the individual; 3) the health and safety of the individual is paramount; and 4) Each transition must be accomplished carefully, and with thorough planning and coordination.

The Task Force developed six recommendations. The first three directly relate to services for the three primary groups of DC residents, especially those needing specialty services in each group. The fourth recommendation relates to access to specialty health care services in the community; the fifth recommendation is associated with the use of DC land and resources; and the last recommendation addresses the community system.

TASK FORCE RECOMMENDATIONS

Recommendation 1: Individuals with Enduring and Complex Medical Needs

Approximately 445 of the total DC population, or 32.1 percent, are individuals with complex medical needs receiving SNF care, many of whom have multiple medical conditions requiring specialty services.

Various community-based models of care exist to serve and support individuals with complex medical needs, ranging from the family home with add-on or wrap-around nursing services; to the residential model authorized under SB 962 and SB 853 (962 homes); to an array of licensed health facilities, including an ICF/DD-Nursing and an ICF/DD-Continuous Nursing. Based on the closure experiences with Agnews DC and Lanterman DC, 70.9 percent of the SNF residents are expected to require the 962 home level of care, or 315 individuals.

To serve DC residents with enduring and complex medical needs, the Task Force recommended regional centers assess and adjust their community capacity. One of five existing licensing categories should be considered for individuals with complex medical needs moving to the community: a 962 home, a small ICF/DD-Nursing, an ICF/DD-Continuous Nursing, a Residential Care Facility for the Elderly (RCFE), or a Community Care Facility with appropriate medical wrap around services. Each regional center should first explore existing resources (vacant beds), both within its catchment area and any available for statewide use, where appropriate and suitable for the consumer based on his or her comprehensive assessment. The regional center should utilize those existing resources to the extent appropriate and propose new community development through the CPP process to address the unmet residential and support needs of the population.

The Task Force further recommended the development of more homes/facilities using the existing models of care. However, they generally agreed that SNFs in the community should only be used for addressing short-term acute needs, and are not an appropriate long-term environment for consumers with enduring medical needs.

With regard to the role of the State, the Task Force recommended:

- The State use CPP funds for regional center development of more 962 homes and other needed residential and support services and day programs to serve DC residents in the community. The development of the additional 962 homes could be supported by annually targeting approximately \$8.5 million in CPP funds over the next three years, or \$25 million over the three-year period.

- DDS, working with the regional centers, determine the number of existing vacancies in homes/facilities and make this information available.

Recommendation 2: Individuals with Challenging Behaviors and Support Needs

Approximately 227 DC residents, or 16.4 percent, have significantly complex and challenging behaviors. The Task Force considered behaviors or conditions involving elopement, aggression, self-injury, Pica, maladaptive sexual activity, mental illness, substance abuse, and/or significant property destruction to present the greatest service delivery challenges requiring a wide array of options. Existing community services are insufficient to meet the needs of this population.

Greater access to specialty services is needed, especially mental health and medication management services, increased psychiatric care, and enhanced wrap-around supports to maintain individuals in their current community residence. With the increased capacity of short-term crisis homes, acute crisis facilities will be needed. In addition, the group recommended a new “SB 962 like” model with specialty wrap around services to provide a higher level of behavioral supports, crisis response services, and step-down or re-entry programs.

The Task Force also agreed that there must be a “placement of last resort” for individuals with significantly challenging behaviors. Consumers in crisis must always have a place to go when in need.

With regard to the role of the State, the Task Force recommended the State:

- Operate acute crisis facilities (like the program at Fairview DC) at least in the Northern and Southern parts of the State. These two 15-bed (or smaller) facilities may require development funds and would have an estimated annual combined operating cost of \$8.8 million.
- Operate some transitional facilities (like the program at Canyon Springs Community Facility, only smaller). For example, a 15-bed (or smaller) facility would have an estimated annual operating cost of \$4.4 million.
- Develop new “SB 962 like” model homes with specialty wrap around services to provide a higher level of behavioral supports. These 3-bed facilities could be developed using CPP funding at an estimated cost of \$500,000 each, plus ongoing operating costs. Based on the current DC population, approximately 36 such homes would be needed if it were determined that this level of care was appropriate for those remaining in the DCs with challenging behaviors.

- Identify community capacity in existing models of care.
- Support regional center efforts to enhance supports to maintain individuals in their own homes.
- Provide or earmark CPP funding for regional centers to:
 - Expand mobile crisis response teams;
 - Expand crisis hotlines;
 - Expand day programs;
 - Create short-term crisis homes; and
 - Develop new “SB 962 like” behavioral homes (see above).
- Provide DC staff to assist with the transition of individuals with challenging behaviors.

Recommendation 3: Individuals Involved in the Criminal Justice System

Roughly 14.4 percent of the DC population has had some involvement with the criminal justice system. Although the number of residents is relatively small, the needs of the population are great. The Task Force considered dual diagnosis of mental illness; individuals charged with a felony, particularly a sex offense; and individuals incompetent to stand trial as significant issues associated with their care.

With regard to the role of the State, the Task Force recommended the State:

- Continue to operate Porterville DC-STP since it is preferable for this population over prison, jail, a locked psychiatric facility, or placement out of state. The Porterville DC-STP focuses on restoring competency as a primary function, but also provides rehabilitation programs, vocational education and other services in a secure environment. Secure treatment was viewed as primarily a responsibility of the State. It was recognized that some facilities serving the forensic population are funded using 100 percent General Fund. Continuing to operate the Porterville DC-STP has an annual cost of \$76 million General Fund.
- Continue to operate Canyon Springs Community Facility as a re-entry program for criminal justice system-involved consumers leaving Porterville DC-STP. Continuing to operate Canyon Springs Community Facility has an annual cost of \$16.1 million, which is eligible for federal financial participation.
- Consider changing the law to allow a continuum of services for competency restoration training rather than all forensic clients being committed to the Porterville DC-STP.

- Explore the development of alternatives to the Porterville DC-STP. Community options would allow individuals to remain closer to their family and regional center. These forensic facilities would likely be ineligible for federal financial participation.

Recommendation 4: Health Resource Center

The Task Force supported the need for coordinated health care services, including mental health, psychiatry, medication management, and centralized medical records. The group recognized the importance of the DC specialty services, such as the Sonoma DC shoe and wheelchair molding and the availability of medical professionals with vast experiences and expertise serving individuals with complex developmental and medical needs.

In particular, the Task Force reviewed and discussed PACE (Program of All-inclusive Care for the Elderly), a federal program that provides community-based health care and services to people age 55 or older who otherwise would need a nursing home level of care. PACE is designed for a team of health professionals to provide “one-stop” comprehensive health care within a complex of services and functions like a HMO. Under the existing PACE model, the care is exclusive, and individuals electing this care give up their other medical coverage. Although serving individuals with intellectual and developmental disabilities would be very different from serving the elderly, the concept of an organized array of needed health services in one “health resource center” was appealing.

The health care services and supports developed and provided during the closure processes for Agnews DC and Lanterman DC were another area of consideration. The Task Force was interested in the care coordination provided by the regional centers, especially for health and dental care. Also considered were the transition of health services to managed care, and the services provided by the DC outpatient clinics to ensure continuity of and accessibility to care.

The Task Force recommended exploring a workable model for a health resource center that would address the health needs of the DC residents after they transition to community homes. Where possible, the State should incorporate appropriate existing DC resources. The health resource center should address any gaps in service that may exist including, but not limited to, care coordination, dental, mental health, durable medical equipment, assistive technology, and DC specialty (such as shoes) services. Care coordination was considered a critical component for the successful transition and continued support of any resident, regardless of their other support needs. It was

recognized, however, that as community services develop, the need for the health resource center services may change.

Since most DC residents are receiving Medi-Cal and the use of a service model focused on developmental disabilities will likely require prior federal CMS approval (a waiver or a State Plan Amendment), further work needs to be done to determine the most advantageous approach to providing the specialized, coordinated care.

Recommendation 5: Use of DC Land and Resources

The Task Force generally agreed unused (current and prospective) state DC land should be leveraged to benefit consumers rather than being declared surplus. Members understood surplus land disposition is controlled by the State Constitution and sales revenue cannot be diverted to the developmental disabilities system. However, the property should be considered for future State-operated facilities and to develop community services, including the Health Resource Center and mixed use communities similar to Harbor Village in Costa Mesa.

With regard to the role of the State, the Task Force recommended:

- State land should be retained and the State should enter into public/private partnerships to provide community integrated services, where appropriate. (Note: The four large DCs comprise a total of 2,181 acres of land, of which the core campuses use 878 acres, or about 40 percent of the acreage. Canyon Springs Community Facility has a lease agreement through September 2015, including additional acreage that could be developed. The lease agreement has an option to purchase or exercise a 15 year extension.)
- Existing State buildings on DC property should be used, as appropriate, for developing service models identified in the previous recommendations. Repurposing existing buildings requires meeting current building and seismic safety codes.

Recommendation 6: Future of the Community System

Although outside the scope of this Task Force's charge, the Task Force expressed a desire for DDS to form another task force to address ways to make the community system stronger. Among the many issues to be considered are: 1) the sufficiency of community rates and the impact new State and federal laws and regulations may have; 2) whether current regulations can be streamlined, particularly affecting the licensing of facilities; and, 3) whether certain benefits received by DC residents as part of a DC closure process should be broadened to others in the community. These areas have a

significant and long term impact on services for individuals with intellectual and developmental disabilities.

The make-up of the next task force should be similar to the Task Force on the Future of Developmental Centers, including representatives from the DCs. However, the priority given to the work should be after significant progress has been made on Recommendations 1 through 5.

NEXT STEPS

The recommendations made by the Task Force include some recommendations that can be acted on quickly, while others need further work and development. Implementation of the recommendations with the greatest clarity should begin right away. Concurrently, to move in the direction recommended by the Task Force on the more involved recommendations and to continue the active stakeholder engagement that contributed so significantly to this work, the State will use an approach modeled on the Agnews DC closure stakeholder process to design and implement the fundamental transformation of the remaining DCs.



LPPC Legislative Report

As of 3/27/2014

GoTo:

[AB 1089](#)

(Calderon, Jan D) Foster care. (Amended: 6/17/2013 [pdf](#) [html](#))

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

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 [pdf](#) [html](#))

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

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

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

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.** (Introduced: 2/3/2014 [pdf](#) [html](#))**Status:** 2/4/2014-From printer. May be heard in committee March 6.**Location:** 2/3/2014-A. PRINT

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

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 state the intent of the Legislature to enact legislation amending specified provisions pertaining to the operations, structure, and responsibilities of the State Council on Developmental Disabilities. This bill contains other existing laws.

Position Support

Priority : Letter

[AB 1626](#)**(Maienschein R) Developmental services: habilitation.** (Introduced: 2/10/2014 [pdf](#) [html](#))**Status:** 3/26/2014-From committee: Do pass and re-refer to Com. on APPR. (Ayes 7. Noes 0.) (March 25). Re-referred to Com. on APPR.**Location:** 3/26/2014-A. APPR.

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

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 [pdf](#) [html](#))**Status:** 3/26/2014-From committee chair, with author's amendments: Amend, and re-refer to Com. on HUM. S. Read second time and amended.**Location:** 3/26/2014-A. HUM. S.

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

Calendar: 4/8/2014 1:30 p.m. - State Capitol, Room 437 ASSEMBLY HUMAN SERVICES, STONE, Chair

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: 3/26/2014 [pdf](#) [html](#))

Status: 3/26/2014-From committee chair, with author's amendments: Amend, and re-refer to Com. on HUM. S. Read second time and amended.

Location: 3/26/2014-A. HUM. S.

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

Calendar: 4/8/2014 1:30 p.m. - State Capitol, Room 437 ASSEMBLY HUMAN SERVICES, STONE, Chair

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 [pdf](#) [html](#))

Status: 3/25/2014-In committee: Hearing postponed by committee.

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

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

Calendar: 4/8/2014 1:30 p.m. - State Capitol, Room 437 ASSEMBLY HUMAN SERVICES, STONE, Chair

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.** (Introduced: 2/19/2014 [pdf](#) [html](#))**Status:** 3/26/2014-From committee: Do pass as amended and re-refer to Com. on APPR. with recommendation: to consent calendar. (Ayes 7. Noes 0.) (March 25).**Location:** 3/26/2014-A. SECOND READING

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

Calendar: 3/28/2014 #5 ASSEMBLY ASSEMBLY SECOND READING FILE

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.** (Introduced: 2/20/2014 [pdf](#) [html](#))**Status:** 2/21/2014-From printer. May be heard in committee March 23.**Location:** 2/20/2014-A. PRINT

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 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. This bill would make technical, nonsubstantive changes to these provisions.

Position Watch**Priority :**[AB 2299](#)**(Nazarian D) Developmental services: individual program plans and individualized family service plans.** (Introduced: 2/21/2014 [pdf](#) [html](#))**Status:** 2/24/2014-Read first time.**Location:** 2/21/2014-A. PRINT

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. 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. This bill would declare the intent of the Legislature to enact legislation that would remove barriers that restrict access for regional center consumers to medically necessary services identified in an individual program plan or individualized family service plan.

Position Watch**Priority :** Letter[AB 2359](#)**(Rodriguez D) Services for the developmentally disabled: regional centers.** (Introduced: 2/21/2014 [pdf](#) [html](#))**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							

Calendar: 4/29/2014 1:30 p.m. - State Capitol Room 437 ASSEMBLY HUMAN SERVICES, STONE, Chair
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 [pdf](#) [html](#))

Status: 3/26/2014-Re-referred to Com. on L. & E.

Location: 3/26/2014-A. L. & E.

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

Calendar: 4/23/2014 1:30 p.m. - State Capitol, Room 447 ASSEMBLY LABOR AND EMPLOYMENT, HERNÁNDEZ, Chair

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 [pdf](#) [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 Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	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 [pdf](#) [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 Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	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 [pdf](#) [html](#))**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: 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 [pdf](#) [html](#))**Status:** 1/30/2014-In Assembly. Read first time. Held at Desk.**Location:** 1/30/2014-A. DESK

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 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

[SB 663](#)

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

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. (Introduced: 1/7/2014 [pdf](#) [html](#))

Status: 3/26/2014-From committee: Do pass as amended and re-refer to Com. on APPR. (Ayes 7. Noes 0.) (March 19).

Location: 3/26/2014-S. SECOND READING

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

Calendar: 3/28/2014 #3 SENATE SENATE BILLS-SECOND READING FILE

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 forward the documentation of the bullying incidents to the department. This bill contains other related provisions and other existing laws.

Position Watch

Priority : Letter

[SB 922](#)

(Knight R) Sex offenses: disabled victims. (Introduced: 1/29/2014 [pdf](#) [html](#))

Status: 3/12/2014-Set for hearing April 22.

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

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

Calendar: 4/22/2014 9:30 a.m. - Room 3191 SENATE PUBLIC SAFETY, HANCOCK, Chair

Summary: Under existing law, a person who commits rape 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. Under existing law, a person who commits that crime voluntarily acting in concert with another person, by force or violence and against the will of the victim, shall be punished by imprisonment in the state prison for 5, 7, or 9 years. This bill would instead make these crimes punishable by imprisonment in the state prison for 9, 11, or 13 years, and 10, 12, or 14 years, respectively.

Position Watch

Priority : Letter

[SB 935](#)

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

Status: 3/26/2014-From committee: Do pass and re-refer to Com. on APPR. (Ayes 3. Noes 1.) (March 26). Re-referred to Com. on APPR.

Location: 3/26/2014-S. APPR.

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.

(Introduced: 2/18/2014 [pdf](#) [html](#))

Status: 3/21/2014-Set for hearing April 2.

Location: 2/27/2014-S. HEALTH

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

Calendar: 4/2/2014 1:30 p.m. - John L. Burton Hearing Room (4203) SENATE HEALTH, HERNANDEZ, 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 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.

(Introduced: 2/19/2014 [pdf](#) [html](#))

Status: 2/27/2014-Referred to Com. on RLS.

Location: 2/27/2014-S. RLS.

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 authorizes the State Department of Developmental Services to contract with regional centers to provide services and support to individuals with developmental disabilities. 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 state the intent of the Legislature to enact legislation that requires regional centers to provide services in a culturally and linguistically competent manner, that reduces disparities in treatment based on racial, ethnic, and language differences that are identified by the purchase of service data, and that ensures that services are provided in the least restrictive environment, including, but not limited to, a consumer's family home.

Position Watch

Priority :

[SB 1109](#)

(Hueso D) Public contracts: integrated employment. (Introduced: 2/19/2014 [pdf](#) [html](#))

Status: 2/27/2014-Referred to Com. on RLS.

Location: 2/27/2014-S. RLS.

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

Summary: Existing law establishes specified requirements applicable to contracts entered into by state agencies, as provided. 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 state the intent of the Legislature to enact legislation to provide that the state serve as a model for employers in California in increasing competitive integrated employment for individuals with disabilities by prohibiting the entering into of contracts by the state with organizations that pay employees with disabilities less than the minimum wage.

Position Watch

Priority : Letter

[SB 1127](#)

(Torres D) Emergency services: individuals with developmental disabilities. (Introduced: 2/19/2014

[pdf](#) [html](#))

Status: 2/27/2014-Referred to Com. on RLS.

Location: 2/27/2014-S. RLS.

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

Summary: Existing law requires a law enforcement agency to activate the Emergency Alert System within the appropriate area if that agency determines that a child 17 years of age or younger, or an individual with a proven mental or physical disability, has been abducted and is in imminent danger of serious bodily injury or death, and there is information available that, if disseminated to the general public, could assist in the safe recovery of that person. Existing law also requires that if a person is reported missing to a 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, the law enforcement agency shall request the California Highway Patrol to activate a Silver Alert, the notification system designed to issue and coordinate these alerts. This bill would state the intent of the Legislature to enact legislation to establish a statewide quick response and notification system for individuals with developmental disabilities who are reported missing.

Position Watch

Priority :

(Hancock D) School climate: Schoolwide Positive Behavior Intervention and Support program.

(Introduced: 2/21/2014 [pdf](#) [html](#))

Status: 3/19/2014-Set for hearing April 2.

Location: 3/17/2014-S. ED.

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

Calendar: 4/2/2014 9 a.m. - John L. Burton Hearing Room (4203) SENATE EDUCATION, LIU, 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 the Schoolwide Positive Behavior 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 schoolwide positive behavior and support to school personnel. This bill contains other related provisions.

Position Watch

Priority :

[SB 1428](#)

(Evans D) Sonoma Developmental Center: land use. (Introduced: 2/21/2014 [pdf](#) [html](#))

Status: 3/18/2014-Set for hearing April 8.

Location: 3/17/2014-S. G.O.

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

Calendar: 4/8/2014 9:30 a.m. - John L. Burton Hearing Room (4203) SPECIAL ORDER OF BUSINESS AT 9:30 A.M. SENATE GOVERNMENTAL ORGANIZATION, CORREA, 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 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 [pdf](#) [html](#))

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	Chaptered
	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.

Federal Legislation

Bill#	Author	Subject	Date of last action	Comments
S2036	Sen. Tom Harkin	Student Safety	Int. Feb 14 2014	To protect all students from harmful practices
S313	Sen. R. Casey Jr.	Families Tax issues	Feb 5 2013	To Amend Internal Revenue Code on tax issue of families with disabled children.
HR 509	Rep. Greg Harper	Transition	Feb5 2013	To amend Rehab Act of 1973 concerning transition to adulthood
HR 510	Rep. Greg Harper	Education Act	Feb5 2013	To amend Individual with Disabilities Education Act
HR 511	Rep. Greg Harper	Transition	Feb5 2013	To amend DD Assistance and Bill of Rights of 2000 on transitions issues
HR647	Rep. Ander Greshaw	Families Tax issues	Feb 5 2013	To Amend Internal Revenue Code on tax issue of families with disabled children.

ASSEMBLY BILL

No. 1806

Introduced by Assembly Member Bloom

February 18, 2014

An act to amend Sections 48915.5, 48918.1, 51225.1, and 51225.2 of the Education Code, relating to pupil services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1806, as introduced, Bloom. Pupil services: homeless children or youth.

(1) Existing law, if an individual with exceptional needs is a foster child, as defined, and the local educational agency has proposed a change of placement due to an act for which a decision to recommend expulsion is at the discretion of the principal or the district superintendent of schools, requires the attorney for the individual with exceptional needs and an appropriate representative of the county child welfare agency to be invited to participate in the individualized education program team meeting that makes a manifestation determination, as specified.

This bill, if an individual with exceptional needs is a homeless child or youth, as defined, and the local educational agency has proposed a change of placement due to an act for which a decision to recommend expulsion is at the discretion of the principal or the district superintendent of schools, would require the designated local educational agency liaison for homeless children and youth to be invited to participate in the individualized education program team meeting that makes a manifestation determination, as specified.

(2) Existing law, if the decision to recommend expulsion is a discretionary act and the pupil is a foster child, as defined, requires the

governing board of the school district to provide notice of the expulsion hearing to the pupil's attorney and an appropriate representative of the county child welfare agency, as specified. Existing law, if a recommendation of expulsion is required and the pupil is a foster child, as defined, authorizes the governing board of the school district to provide notice of the expulsion hearing to the pupil's attorney and an appropriate representative of the county child welfare agency, as specified.

This bill, if the decision to recommend expulsion is a discretionary act and the pupil is a homeless child or youth, as defined, would require the governing board of the school district to provide notice of the expulsion hearing to the designated local educational agency liaison for homeless children and youth, as specified. The bill, if a recommendation of expulsion is required and the pupil is a homeless child or youth, as defined, would authorize the governing board of the school district to provide notice of the expulsion hearing to the designated local educational agency liaison for homeless children and youth, as specified.

(3) Existing law requires a school district to exempt a pupil in foster care, as defined, who transfers between schools any time after the completion of the pupil's 2nd year of high school from all coursework and other requirements adopted by the governing board of the school district that are in addition to certain statewide coursework requirements unless the school district makes a finding that the pupil is reasonably able to complete the school district's graduation requirements in time to graduate from high school by the end of the pupil's 4th year of high school. Existing law requires, among other things, the school district to take specified actions if it determines that the pupil in foster care is reasonably able to complete the school district's graduation requirements within the pupil's 5th year of high school.

This bill would extend these provisions to a pupil who is a homeless child or youth, as defined. By requiring school districts to perform additional duties in complying with the exemption requirements, the bill would impose a state-mandated local program.

(4) Existing law requires a school district and county office of education to accept coursework satisfactorily completed by a pupil in foster care, as defined, while attending another public school, a juvenile court school, or a nonpublic, nonsectarian school or agency even if the pupil did not complete the entire course and requires the school district and county office of education to issue that pupil full or partial credit

for the coursework completed. Existing law prohibits a school district or county office of education from, among other things, requiring a pupil in foster care to retake a course if the pupil has satisfactorily completed the entire course in a public school, a juvenile court school, or a nonpublic, nonsectarian school or agency. Existing law provides that a pupil in foster care shall not be prohibited from retaking or taking a course to meet the eligibility requirements for admission to the California State University or the University of California.

This bill would extend these provisions to a pupil who is a homeless child or youth, as defined. By requiring a school district and county office of education to perform additional duties in complying with the requirements to accept coursework, the bill would impose a state-mandated local program.

(5) 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.
State-mandated local program: yes.

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

- 1 SECTION 1. Section 48915.5 of the Education Code is
- 2 amended to read:
- 3 48915.5. (a) An individual with exceptional needs, as defined
- 4 in Section 56026, may be suspended or expelled from school in
- 5 accordance with Section 1415(k) of Title 20 of the United States
- 6 Code, the discipline provisions contained in Sections 300.530 to
- 7 300.537, inclusive, of Title 34 of the Code of Federal Regulations,
- 8 and other provisions of this part that do not conflict with federal
- 9 law and regulations.
- 10 (b) A free appropriate public education for individuals with
- 11 exceptional needs suspended or expelled from school shall be in
- 12 accordance with Section 1412(a)(1) of Title 20 of the United States
- 13 Code and Section 300.530(d) of Title 34 of the Code of Federal
- 14 Regulations.

1 (c) If an individual with exceptional needs is excluded from
2 schoolbus transportation, the pupil is entitled to be provided with
3 an alternative form of transportation at no cost to the pupil or parent
4 or guardian provided that transportation is specified in the pupil's
5 individualized education program.

6 (d) If the individual with exceptional needs is a foster child, as
7 defined in Section 48853.5, and the local educational agency has
8 proposed a change of placement due to an act for which a decision
9 to recommend expulsion is at the discretion of the principal or the
10 district superintendent of schools, the attorney for the individual
11 with exceptional needs and an appropriate representative of the
12 county child welfare agency shall be invited to participate in the
13 individualized education program team meeting that makes a
14 manifestation determination pursuant to Section 1415(k) of Title
15 20 of the United States Code. The invitation may be made using
16 the most cost-effective method possible, which may include, but
17 is not limited to, electronic mail or a telephone call.

18 (e) *If the individual with exceptional needs is a homeless child*
19 *or youth, as defined in Section 11434a(2) of Title 42 of the United*
20 *States Code, and the local educational agency has proposed a*
21 *change of placement due to an act for which a decision to*
22 *recommend expulsion is at the discretion of the principal or the*
23 *district superintendent of schools, the local educational agency*
24 *liaison for homeless children and youth designated pursuant to*
25 *Section 11432(g)(1)(J)(ii) of Title 42 of the United States Code*
26 *shall be invited to participate in the individualized education*
27 *program team meeting that makes a manifestation determination*
28 *pursuant to Section 1415(k) of Title 20 of the United States Code.*
29 *The invitation may be made using the most cost-effective method*
30 *possible, which may include, but is not limited to, electronic mail*
31 *or a telephone call.*

32 SEC. 2. Section 48918.1 of the Education Code is amended to
33 read:

34 48918.1. (a) ~~If~~ (1) *If* the decision to recommend expulsion is
35 a discretionary act and the pupil is a foster child, as defined in
36 Section 48853.5, the governing board of the school district shall
37 provide notice of the expulsion hearing to the pupil's attorney and
38 an appropriate representative of the county child welfare agency
39 at least 10 calendar days before the date of the hearing. The notice
40 may be made using the most cost-effective method possible, which

1 may include, but is not limited to, electronic mail or a telephone
2 call.

3 ~~(b)~~

4 (2) If a recommendation of expulsion is required and the pupil
5 is a foster child, as defined in Section 48853.5, the governing board
6 of the school district may provide notice of the expulsion hearing
7 to the pupil’s attorney and an appropriate representative of the
8 county child welfare agency at least 10 calendar days before the
9 date of the hearing. The notice may be made using the most
10 cost-effective method possible, which may include, but is not
11 limited to, electronic mail or a telephone call.

12 *(b) (1) If the decision to recommend expulsion is a discretionary*
13 *act and the pupil is a homeless child or youth, as defined in Section*
14 *11434a(2) of Title 42 of the United States Code, the governing*
15 *board of the school district shall provide notice of the expulsion*
16 *hearing to the local educational agency liaison for homeless*
17 *children and youth designated pursuant to Section*
18 *11432(g)(1)(J)(ii) of Title 42 of the United States Code at least 10*
19 *calendar days before the date of the hearing. The notice may be*
20 *made using the most cost-effective method possible, which may*
21 *include, but is not limited to, electronic mail or a telephone call.*

22 *(2) If a recommendation of expulsion is required and the pupil*
23 *is a homeless child or youth, as defined in Section 11434a(2) of*
24 *Title 42 of the United States Code, the governing board of the*
25 *school district may provide notice of the expulsion hearing to the*
26 *local educational agency liaison for homeless children and youth*
27 *designated pursuant to Section 11432(g)(1)(J)(ii) of Title 42 of*
28 *the United States Code at least 10 calendar days before the date*
29 *of the hearing. The notice may be made using the most*
30 *cost-effective method possible, which may include, but is not limited*
31 *to, electronic mail or a telephone call.*

32 SEC. 3. Section 51225.1 of the Education Code is amended to
33 read:

34 51225.1. (a) Notwithstanding any other law, a school district
35 shall exempt a pupil in foster care, as defined in Section 51225.2,
36 or a pupil who is a homeless child or youth, as defined in Section
37 11434a(2) of Title 42 of the United States Code, who transfers
38 between schools any time after the completion of the pupil’s second
39 year of high school from all coursework and other requirements
40 adopted by the governing board of the school district that are in

1 addition to the statewide coursework requirements specified in
2 Section 51225.3, unless the school district makes a finding that
3 the pupil is reasonably able to complete the school district's
4 graduation requirements in time to graduate from high school by
5 the end of the pupil's fourth year of high school.

6 (b) If the school district determines that the pupil in foster care,
7 *or the pupil who is a homeless child or youth*, is reasonably able
8 to complete the school district's graduation requirements within
9 the pupil's fifth year of high school, the *school* district shall do all
10 of the following:

11 (1) Inform the pupil of his or her option to remain in school for
12 a fifth year to complete the school district's graduation
13 requirements.

14 (2) Inform the pupil, and the person holding the right to make
15 educational decisions for the pupil, about how remaining in school
16 for a fifth year to complete the school district's graduation
17 requirements will affect the pupil's ability to gain admission to a
18 postsecondary educational institution.

19 (3) Provide information to the pupil about transfer opportunities
20 available through the California Community Colleges.

21 (4) Permit the pupil to stay in school for a fifth year to complete
22 the school district's graduation requirements upon agreement with
23 the pupil, if the pupil is 18 years of age or older, or, if the pupil is
24 under 18 years of age, upon agreement with the person holding
25 the right to make educational decisions for the pupil.

26 (c) To determine whether a pupil in foster care, *or a pupil who*
27 *is a homeless child or youth*, is in the third or fourth year of high
28 school, either the number of credits the pupil has earned to the
29 date of transfer or the length of the pupil's school enrollment may
30 be used, whichever will qualify the pupil for the exemption.

31 (d) ~~Within~~ (1) *Within* 30 calendar days of the date that a pupil
32 in foster care who may qualify for the exemption from local
33 graduation requirements pursuant to this section transfers into a
34 school, the school district shall notify the pupil, the person holding
35 the right to make educational decisions for the pupil, and the pupil's
36 social worker, of the availability of the exemption and whether
37 the pupil qualifies for an exemption.

38 (2) *Within 30 calendar days of the date that a pupil who is a*
39 *homeless child or youth may qualify for the exemption from local*
40 *graduation requirements pursuant to this section transfers into a*

1 *school, the school district shall notify the pupil, the person holding*
2 *the right to make educational decisions for the pupil, and the local*
3 *educational agency liaison for homeless children and youth*
4 *designated pursuant to Section 11432(g)(1)(J)(ii) of Title 42 of*
5 *the United States Code, of the availability of the exemption and*
6 *whether the pupil qualifies for an exemption.*

7 (e) *If a pupil in foster care, or a pupil who is a homeless child*
8 *or youth, is exempted from local graduation requirements pursuant*
9 *to this section and completes the statewide coursework*
10 *requirements specified in Section 51225.3 before the end of his or*
11 *her fourth year in high school and that pupil would otherwise be*
12 *entitled to remain in attendance at the school, a school or school*
13 *district shall not require or request that the pupil graduate before*
14 *the end of his or her fourth year of high school.*

15 (f) *If a pupil in foster care, or a pupil who is a homeless child*
16 *or youth, is exempted from local graduation requirements pursuant*
17 *to this section, the school district shall notify the pupil and the*
18 *person holding the right to make educational decisions for the*
19 *pupil how any of the requirements that are waived will affect the*
20 *pupil's ability to gain admission to a postsecondary educational*
21 *institution and shall provide information about transfer*
22 *opportunities available through the California Community*
23 *Colleges.*

24 (g) *A pupil in foster care, or a pupil who is a homeless child or*
25 *youth, who is eligible for the exemption from local graduation*
26 *requirements pursuant to this section and would otherwise be*
27 *entitled to remain in attendance at the school shall not be required*
28 *to accept the exemption or be denied enrollment in, or the ability*
29 *to complete, courses for which he or she is otherwise eligible,*
30 *including courses necessary to attend an institution of higher*
31 *education, regardless of whether those courses are required for*
32 *statewide graduation requirements.*

33 (h) *If a pupil in foster care, or a pupil who is a homeless child*
34 *or youth, is not exempted from local graduation requirements or*
35 *has previously declined the exemption pursuant to this section, a*
36 *school district shall exempt the pupil at any time if an exemption*
37 *is requested by the pupil and the pupil qualifies for the exemption.*

38 (i) *If a pupil in foster care, or a pupil who is a homeless child*
39 *or youth, is exempted from local graduation requirements pursuant*
40 *to this section, a school district shall not revoke the exemption.*

1 (j) If a pupil in foster care is exempted from local graduation
 2 requirements pursuant to this section, the exemption shall continue
 3 to apply after the termination of the court’s jurisdiction over the
 4 pupil while he or she is enrolled in school or if the pupil transfers
 5 to another school or school district.

6 (k) A school district shall not require or request a pupil in foster
 7 care, *or a pupil who is a homeless child or youth*, to transfer
 8 schools in order to qualify the pupil for an exemption pursuant to
 9 this section.

10 (l) ~~(1)~~ A pupil in foster care, the person holding the right to
 11 make educational decisions for the pupil, the pupil’s social worker,
 12 or the pupil’s probation officer shall not request a transfer solely
 13 to qualify the pupil for an exemption pursuant to this section.

14 (2) *A pupil who is a homeless child or youth, the person holding*
 15 *the right to make educational decisions for the pupil, or the local*
 16 *educational agency liaison for homeless children and youth*
 17 *designated pursuant to Section 11432(g)(1)(J)(ii) of Title 42 of*
 18 *the United States Code, shall not request a transfer solely to qualify*
 19 *the pupil for an exemption pursuant to this section.*

20 SEC. 4. Section 51225.2 of the Education Code is amended to
 21 read:

22 51225.2. (a) ~~For (1)~~ For purposes of this section, “pupil in
 23 foster care” means ~~any~~ a child who has been removed from his or
 24 her home pursuant to Section 309 of the Welfare and Institutions
 25 Code, is the subject of a petition filed under Section 300 or 602
 26 of the Welfare and Institutions Code, or has been removed from
 27 his or her home and is the subject of a petition filed under Section
 28 300 or 602 of the Welfare and Institutions Code.

29 (2) *For purposes of this section, “pupil who is a homeless child*
 30 *or youth” means a pupil who meets the definition of “homeless*
 31 *child or youth” in Section 11434a(2) of Title 42 of the United*
 32 *States Code.*

33 (b) Notwithstanding any other law, a school district and county
 34 office of education shall accept coursework satisfactorily completed
 35 by a pupil in foster care *or a pupil who is a homeless child* while
 36 attending another public school, a juvenile court school, or a
 37 nonpublic, nonsectarian school or agency even if the pupil did not
 38 complete the entire course and shall issue that pupil full or partial
 39 credit for the coursework completed.

1 (c) The credits accepted pursuant to subdivision (b) shall be
2 applied to the same or equivalent course, if applicable, as the
3 coursework completed in the prior public school, juvenile court
4 school, or nonpublic, nonsectarian school or agency.

5 (d) A school district or county office of education shall not
6 require a pupil in foster care *or a pupil who is a homeless child or*
7 *youth* to retake a course if the pupil has satisfactorily completed
8 the entire course in a public school, a juvenile court school, or a
9 nonpublic, nonsectarian school or agency. If the pupil did not
10 complete the entire course, the school district or county office of
11 education shall not require the pupil to retake the portion of the
12 course the pupil completed unless the school district or county
13 office of education, in consultation with the holder of educational
14 rights for the pupil, finds that the pupil is reasonably able to
15 complete the requirements in time to graduate from high school.
16 When partial credit is awarded in a particular course, the pupil in
17 foster care *or the pupil who is a homeless child or youth* shall be
18 enrolled in the same or equivalent course, if applicable, so that the
19 pupil may continue and complete the entire course.

20 (e) A pupil in foster care *or a pupil who is a homeless child or*
21 *youth* shall not be prevented from retaking or taking a course to
22 meet the eligibility requirements for admission to the California
23 State University or the University of California.

24 SEC. 5. If the Commission on State Mandates determines that
25 this act contains costs mandated by the state, reimbursement to
26 local agencies and school districts for those costs shall be made
27 pursuant to Part 7 (commencing with Section 17500) of Division
28 4 of Title 2 of the Government Code.

O

ASSEMBLY BILL

No. 2057

Introduced by Assembly Member Bonilla

February 20, 2014

An act to amend Section 60640 of the Education Code, relating to pupil assessment, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2057, as introduced, Bonilla. Pupil assessment: consortium alternate performance assessments.

Existing law establishes the Measurement of Academic Performance and Progress (MAPP), commencing with the 2013–14 school year, for the assessment of certain elementary and secondary pupils. The MAPP is composed of (1) a consortium summative assessment in English language arts and mathematics for grades 3 to 8, inclusive, and grade 11, as specified, (2) science grade level assessments in grades 5, 8, and 10, measuring specified content standards, (3) the California Alternate Performance Assessment in grades 2 to 11, inclusive, in English language arts and mathematics and science in grades 5, 8, and 10, as specified, and (4) the Early Assessment Program. Existing law specifies numerous policies and procedures with respect to the development and the implementation of the MAPP by the Superintendent of Public Instruction, the State Board of Education, and affected local educational agencies.

This bill would provide that a consortium alternate performance assessment in English language arts and mathematics that measures specified content standards would be administered in grades 3 to 8, inclusive, and grade 11 instead of the California Alternate Performance

Assessment being administered in grades 2 to 11, inclusive, in English language arts and mathematics. The bill would further provide that, in the 2013–14 school year only, the consortium alternate performance assessment in English language arts and mathematics would be a pilot test only, as specified.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. 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 60640 of the Education Code is amended
2 to read:
3 60640. (a) There is hereby established the Measurement of
4 Academic Performance and Progress, to be known as the MAPP.
5 (b) Commencing with the 2013–14 school year, the MAPP shall
6 be composed of all of the following:
7 (1) (A) A consortium summative assessment in English
8 language arts and mathematics for grades 3 to 8, inclusive, and
9 grade 11 that measures content standards adopted by the state
10 board.
11 (B) In the 2013–14 school year, the consortium summative
12 assessment in English language arts and mathematics shall be a
13 field test only, to enable the consortium to gauge the validity and
14 reliability of these assessments and to conduct all necessary
15 psychometric procedures and studies, including, but not necessarily
16 limited to, achievement standard setting, and to allow the
17 department to conduct studies regarding full implementation of
18 the assessment system. These field tests and results shall not be
19 used for any other purpose, including the calculation of any
20 accountability measure.
21 (2) (A) Science grade level assessments in grades 5, 8, and 10
22 that measure content standards pursuant to Section 60605, until a
23 successor assessment is implemented pursuant to subparagraph
24 (B).
25 (B) For science assessments, the Superintendent shall make a
26 recommendation to the state board as soon as is feasible after the
27 adoption of science content standards pursuant to Section 60605.85
28 regarding the assessment of the newly adopted standards. Before

1 making recommendations, the Superintendent shall consult with
2 stakeholders, including, but not necessarily limited to, California
3 science teachers, individuals with expertise in assessing English
4 learners and pupils with disabilities, parents, and measurement
5 experts, regarding the grade level and type of assessment. The
6 recommendations shall include cost estimates and a plan for
7 implementation of at least one assessment in each of the following
8 grade spans:

9 (i) Grades 3 to 5, inclusive.

10 (ii) Grades 6 to 9, inclusive.

11 (iii) Grades 10 to 12, inclusive.

12 (3) (A) *A consortium alternate performance assessment in*
13 *English language arts and mathematics for grades 3 to 8, inclusive,*
14 *and grade 11 that measures content standards adopted pursuant*
15 *to Section 60605.*

16 (B) *In the 2013–14 school year only, a local educational agency*
17 *may administer either the pilot tests of the consortium alternate*
18 *performance assessment in English language arts and mathematics*
19 *or the California Alternate Performance Assessment. If a local*
20 *educational agency administers the pilot test, the assessment shall*
21 *be a pilot test only, to enable the consortium to gauge the validity*
22 *and reliability of these assessments and to conduct all necessary*
23 *psychometric procedures and studies, including, but not necessarily*
24 *limited to, achievement standard setting, and to allow the*
25 *department to conduct studies regarding full implementation of*
26 *the assessment system. The pilot test and results shall not be used*
27 *for any other purpose, including the calculation of an*
28 *accountability measure.*

29 (3)

30 (4) ~~The California Alternate Performance Assessment in grades~~
31 ~~2 to 11, inclusive, in English language arts and mathematics and~~
32 ~~science in grades 5, 8, and 10, which measures content standards~~
33 ~~adopted pursuant to Section 60605 until a successor assessment~~
34 ~~for this subject matter is implemented. The successor assessment~~
35 ~~shall be limited to the grades and subject areas assessed pursuant~~
36 ~~to paragraph (1) and subparagraph (B) of paragraph (2).~~

37 (4)

38 (5) The Early Assessment Program established by Chapter 6
39 (commencing with Section 99300) of Part 65 of Division 14 of
40 Title 3.

1 ~~(5)~~

2 (6) (A) The department shall make available to local educational
3 agencies a primary language assessment aligned to the English
4 language arts standards adopted pursuant to Section 60605, as it
5 read on January 1, 2013, for assessing pupils who are enrolled in
6 a dual language immersion program that includes the primary
7 language of the assessment and who are either nonlimited English
8 proficient or redesignated fluent English proficient. The cost for
9 the assessment shall be the same for all local educational agencies,
10 and shall not exceed the marginal cost of the assessment, including
11 any cost the department incurs to implement this section.

12 (B) A local educational agency may administer a primary
13 language assessment aligned to the English language arts standards
14 adopted pursuant to Section 60605, as it read on January 1, 2013,
15 at its own expense, and shall enter into an agreement for that
16 purpose with the testing contractor. If the local educational agency
17 chooses to administer a primary language assessment pursuant to
18 this paragraph, the department shall reimburse the local educational
19 agency for its costs, including a per pupil apportionment to
20 administer the assessment pursuant to subdivision (I). The
21 department shall determine the procedures for reimbursement.

22 (C) The Superintendent shall consult with stakeholders,
23 including assessment and English learner experts, to determine
24 the content and purpose of a stand-alone language arts summative
25 assessment in primary languages other than English that aligns
26 with the English-language arts content standards. The
27 Superintendent shall consider the appropriate purpose for this
28 assessment, including, but not necessarily limited to, support for
29 the State Seal of Biliteracy and accountability. It is the intent of
30 the Legislature that an assessment developed pursuant to this
31 section be included in the state accountability system.

32 (D) The Superintendent shall report and make recommendations
33 to the state board at a regularly scheduled public meeting no sooner
34 than one year after the first full administration of the consortium
35 computer-adaptive assessments in English language arts and
36 mathematics summative assessments in grades 3 to 8, inclusive,
37 and grade 11, regarding an implementation timeline and estimated
38 costs of a stand-alone language arts summative assessment in
39 primary languages other than English.

1 (E) The Superintendent shall develop, and the state board shall
2 adopt, a primary language assessment. The Superintendent shall
3 administer this assessment no later than the 2016–17 school year.

4 (F) This paragraph shall be operative only to the extent that
5 funding is provided in the annual Budget Act or another statute
6 for the purpose of this section.

7 (c) No later than March 1, 2016, the Superintendent shall submit
8 to the state board recommendations on expanding the MAPP to
9 include additional assessments, for consideration at a regularly
10 scheduled public meeting. The Superintendent shall also submit
11 these recommendations to the appropriate policy and fiscal
12 committees of the Legislature and to the Director of Finance in
13 accordance with all of the following:

14 (1) In consultation with stakeholders, including, but not
15 necessarily limited to, California teachers, individuals with
16 expertise in assessing English learners and pupils with disabilities,
17 parents, and measurement experts, the Superintendent shall make
18 recommendations regarding assessments including the grade level,
19 content, and type of assessment. These recommendations shall
20 take into consideration the assessments already administered or
21 planned pursuant to subdivision (b). The Superintendent shall
22 consider the use of consortium-developed assessments, various
23 item types, computer-based testing, and a timeline for
24 implementation.

25 (2) The recommendations shall consider assessments in subjects,
26 including, but not necessarily limited to, history-social science,
27 technology, visual and performing arts, and other subjects as
28 appropriate, as well as English language arts, mathematics, and
29 science assessments to augment the assessments required under
30 subdivision (b), and the use of various assessment options,
31 including, but not necessarily limited to, computer-based tests,
32 locally scored performance tasks, and portfolios.

33 (3) The recommendations shall include the use of an assessment
34 calendar that would schedule the assessments identified pursuant
35 to paragraph (2) over several years, the use of matrix sampling, if
36 appropriate, and the use of population sampling.

37 (4) The recommendations shall include a timeline for test
38 development, and shall include cost estimates for subject areas, as
39 appropriate.

1 (5) Upon approval by the state board and the appropriation of
2 funding for this purpose, the Superintendent shall develop and
3 administer approved assessments. The state board shall approve
4 test blueprints, achievement level descriptors, testing periods,
5 performance standards, and a reporting plan for each approved
6 assessment.

7 (d) For the 2013–14 and 2014–15 school years, the department
8 shall make available to local educational agencies Standardized
9 Testing and Reporting Program test forms no longer required by
10 the MAPP. The cost of implementing this subdivision, including,
11 but not necessarily limited to, shipping, printing, scoring, and
12 reporting per pupil shall be the same for all local educational
13 agencies, and shall not exceed the marginal cost of the assessment,
14 including any cost the department incurs to implement this section.
15 A local educational agency that chooses to administer an
16 assessment pursuant to this section shall do so at its own expense,
17 and shall enter into an agreement for that purpose with a contractor,
18 subject to the approval of the department.

19 (e) The Superintendent shall make available a paper and pencil
20 version of any computer-based MAPP assessment for use by pupils
21 who are unable to access the computer-based version of the
22 assessment for a maximum of three years after a new operational
23 test is first administered.

24 (f) (1) From the funds available for that purpose, each local
25 educational agency shall administer assessments to each of its
26 pupils pursuant to subdivision (b). As allowable by federal statute,
27 recently arrived English learner pupils are exempted from taking
28 the assessment in English language arts. The state board shall
29 establish a testing period to provide that all schools administer
30 these tests to pupils at approximately the same time during the
31 instructional year. The testing period established by the state board
32 shall take into consideration the need of local educational agencies
33 to provide makeup days for pupils who were absent during testing,
34 as well as the need to schedule testing on electronic computing
35 devices.

36 (2) For the 2013–14 school year, each local educational agency
37 shall administer the field tests in a manner described by the
38 department in consultation with the president or executive director
39 of the state board. Additional participants in the field test beyond
40 the representative sample may be approved by the department, and

1 the department shall use existing contract savings to fund district
2 participation in one or more tests per participant. Funds for this
3 purpose shall be utilized to allow for maximum participation in
4 the field test across the state. To the extent savings in the current
5 contract are not available to fully fund this participation, the
6 department shall prorate available funds by test. Local educational
7 agencies shall bear any additional costs to administer these
8 assessments that are in excess of the contracted amount. With
9 approval of the state board and the Director of Finance, the
10 department shall amend the existing assessment contract to
11 accommodate field testing beyond the representative sample, and
12 to allow for special studies using information collected from the
13 field tests.

14 (g) From the funds available for that purpose, each local
15 educational agency shall administer assessments as determined by
16 the state board pursuant to paragraph (5) of subdivision (c).

17 (h) As feasible, the MAPP field tests shall be conducted in a
18 manner that will minimize the testing burden on individual schools.
19 The MAPP field tests shall not produce individual pupil scores
20 unless it is determined that these scores are valid and reliable.

21 (i) The governing board of a school district may administer
22 achievement tests in grades other than those required by this section
23 as it deems appropriate.

24 (j) The governing board of a school district may administer a
25 primary language assessment aligned to the English language arts
26 standards adopted pursuant to Section 60605 to a pupil identified
27 as limited English proficient enrolled in any of grades 2 to 11,
28 inclusive, who either receives instruction in his or her primary
29 language or has been enrolled in a school in the United States for
30 less than 12 months until a subsequent primary language
31 assessment aligned to the common core standards in English
32 language arts adopted pursuant to Section 60605.8 is developed
33 pursuant to paragraph ~~(5)~~ (6) of subdivision (b). If the governing
34 board of a school district chooses to administer this assessment,
35 it shall notify the department in a manner determined by the
36 department.

37 (k) Pursuant to Section 1412(a)(16) of Title 20 of the United
38 States Code, individuals with exceptional needs, as defined in
39 Section 56026, shall be included in the testing requirement of
40 subdivision (b) with appropriate accommodations in administration,

1 where necessary, and those individuals with exceptional needs
2 who are unable to participate in the testing, even with
3 accommodations, shall be given an alternate assessment.

4 (I) (1) The Superintendent shall apportion funds appropriated
5 for these purposes to local educational agencies to enable them to
6 meet the requirements of subdivisions (b) and (c).

7 (A) For the MAPP field tests administered in the 2013–14 school
8 year or later school years, the Superintendent shall apportion funds
9 to local educational agencies if funds are specifically provided for
10 this purpose in the annual Budget Act.

11 (B) The Superintendent shall apportion funds to local
12 educational agencies to enable them to administer assessments
13 used to satisfy the voluntary Early Assessment Program in the
14 2013–14 school year pursuant to paragraph ~~(4)~~ (5) of subdivision
15 (b).

16 (2) The state board annually shall establish the amount of
17 funding to be apportioned to local educational agencies for each
18 test administered and annually shall establish the amount that each
19 contractor shall be paid for each test administered under the
20 contracts required pursuant to Section 60643. The amounts to be
21 paid to the contractors shall be determined by considering the cost
22 estimates submitted by each contractor each September and the
23 amount included in the annual Budget Act, and by making
24 allowance for the estimated costs to school districts for compliance
25 with the requirements of subdivisions (b) and (c). The state board
26 shall take into account changes to local educational agency test
27 administration activities under the MAPP, including, but not limited
28 to, the number, type of tests administered, and changes in
29 computerized test registration and administration procedures, when
30 establishing the amount of funding to be apportioned to local
31 educational agencies for each test administered.

32 (3) An adjustment to the amount of funding to be apportioned
33 per test shall not be valid without the approval of the Director of
34 Finance. A request for approval of an adjustment to the amount
35 of funding to be apportioned per test shall be submitted in writing
36 to the Director of Finance and the chairpersons of the fiscal
37 committees of both houses of the Legislature with accompanying
38 material justifying the proposed adjustment. The Director of
39 Finance is authorized to approve only those adjustments related
40 to activities required by statute. The Director of Finance shall

1 approve or disapprove the amount within 30 days of receipt of the
2 request and shall notify the chairpersons of the fiscal committees
3 of both houses of the Legislature of the decision.

4 (m) For purposes of making the computations required by
5 Section 8 of Article XVI of the California Constitution, the
6 appropriation for the apportionments made pursuant to paragraph
7 (1) of subdivision (I), and the payments made to the contractors
8 under the contracts required pursuant to Section 60643 or
9 subparagraph (C) of paragraph (1) of subdivision (a) of Section
10 60605 between the department and the contractor, are "General
11 Fund revenues appropriated for school districts," as defined in
12 subdivision (c) of Section 41202, for the applicable fiscal year,
13 and included within the "total allocations to school districts and
14 community college districts from General Fund proceeds of taxes
15 appropriated pursuant to Article XIII B," as defined in subdivision
16 (e) of Section 41202, for that fiscal year.

17 (n) As a condition to receiving an apportionment pursuant to
18 subdivision (I), a local educational agency shall report to the
19 Superintendent all of the following:

20 (1) The pupils enrolled in the local educational agency in the
21 grades in which assessments were administered pursuant to
22 subdivisions (b) and (c).

23 (2) The pupils to whom an achievement test was administered
24 pursuant to subdivisions (b) and (c) in the local educational agency.

25 (3) The pupils in paragraph (1) who were exempted from the
26 test pursuant to this section.

27 (o) The Superintendent and the state board are authorized and
28 encouraged to assist postsecondary educational institutions to use
29 the assessment results of the MAPP, including, but not necessarily
30 limited to, the grade 11 consortium summative assessments in
31 English language arts and mathematics, for academic credit,
32 placement, or admissions processes.

33 (p) Subject to the availability of funds in the annual Budget Act
34 for this purpose, and exclusive of the consortium assessments, the
35 Superintendent, with the approval of the state board, annually shall
36 release to the public test items from the achievement tests pursuant
37 to Section 60642.5 administered in previous years. Where feasible
38 and practicable, the minimum number of test items released per
39 year shall be equal to 25 percent of the total number of test items
40 on the test administered in the previous year.

1 (q) On or before July 1, 2014, Sections 850 to 868, inclusive,
2 of Title 5 of the California Code of Regulations shall be revised
3 by the state board to conform to the changes made to this section
4 in the first year of the 2013–14 Regular Session. The state board
5 shall adopt initial regulations as emergency regulations to
6 immediately implement the MAPP assessments, including, but
7 not necessarily limited to, the administration, scoring, and reporting
8 of the tests, as the adoption of emergency regulations is necessary
9 for the immediate preservation of the public peace, health, safety,
10 or general welfare within the meaning of Section 11346.1 of the
11 Government Code. The emergency regulations shall be followed
12 by the adoption of permanent regulations, in accordance with the
13 Administrative Procedure Act (Chapter 3.5 (commencing with
14 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
15 Code).

16 SEC. 2. This act is an urgency statute necessary for the
17 immediate preservation of the public peace, health, or safety within
18 the meaning of Article IV of the Constitution and shall go into
19 immediate effect. The facts constituting the necessity are:

20 In order for the changes made by this act to be in place during
21 the 2013–14 school year, it is necessary for this act to take effect
22 immediately.

O

Introduced by Senator Beall

February 18, 2014

An act to add Section 10144.53 to the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 1046, as introduced, Beall. Insurance: mental illness: developmental disabilities: coverage: penalties.

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 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.

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 10144.53 is added to the Insurance Code,
2 to read:

1 10144.53. (a) In addition to any other remedy permitted by
2 law, the commissioner shall have the authority to assess
3 administrative penalties as specified in this section against insurers
4 for violations of Sections 10144.5 and 10144.51.

5 (b) Any person who violates Section 10144.5 or 10144.51, or
6 who violates any rules or orders adopted or issued pursuant to this
7 chapter based on a violation of Section 10144.5 or 10144.51, shall
8 be liable for a penalty not to exceed two thousand five hundred
9 dollars (\$2,500) for each violation or, for a violation that is ongoing
10 and continuous, not to exceed two thousand five hundred dollars
11 (\$2,500) for each day that the violation continues.

12 (c) Each patient harmed by a violation of this chapter constitutes
13 a separate and distinct violation subject to the penalties set forth
14 in this section.

15 (d) The remedies provided by this section and by other sections
16 of this code are not exclusive, and may be sought and employed
17 in any combination to enforce this chapter.

O

Introduced by Senator Liu

February 19, 2014

An act relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

SB 1093, as introduced, Liu. Developmental services: regional centers: culturally and linguistically competent services.

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. 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 state the intent of the Legislature to enact legislation that requires regional centers to provide services in a culturally and linguistically competent manner, that reduces disparities in treatment based on racial, ethnic, and language differences that are identified by the purchase of service data, and that ensures that services are provided in the least restrictive environment, including, but not limited to, a consumer's family home.

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

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

- 1 SECTION 1. It is the intent of the Legislature to enact
- 2 legislation that does all of the following:

- 1 (a) Requires regional centers to provide services in a culturally
- 2 and linguistically competent manner.
- 3 (b) Reduces disparities in treatment based on racial, ethnic, and
- 4 language differences that are identified by the purchase of service
- 5 data.
- 6 (c) Ensures that services are provided in the least restrictive
- 7 environment, including, but not limited to, a consumer's family
- 8 home.

O

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 introduced, Hancock. School climate: Schoolwide Positive Behavior 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 the Schoolwide Positive Behavior 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 schoolwide positive behavior 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 and the Legislature by June 30, 2016, 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) Recent statistics indicate that 20 percent of schoolage youth
13 experience a functional or significant behavior or mental health
14 disorder. In contrast, less than 1 percent of pupils are identified to
15 receive mental health services through the special education
16 classification of emotional disturbance. These numbers suggest a
17 significant gap in the need for school-based prevention and
18 intervention behavioral health services. Schoolwide Positive
19 Behavior Intervention and Support (SW-PBIS) can fill this gap by
20 providing a comprehensive and collaborative prevention and
21 intervention framework for schools to improve academic and
22 behavioral outcomes for all pupils. Recent research from Orange
23 County has shown that in districts where SW-PBIS has been
24 implemented there has been a 26-percent drop in in-school
25 suspensions, a 55-percent drop in out-of-school suspensions, and
26 a 30-percent drop in expulsions.

27 (c) In order to ensure that all pupils flourish academically,
28 districts must establish equitable discipline practices and behavioral
29 interventions that promote positive social-emotional development
30 and that prevent and respond to negative behaviors in order to
31 reengage disconnected pupils. School psychologists play a critical
32 role in implementing school-based educationally related counseling
33 services and positive behavior systems and supports that create
34 and reinforce positive school cultures of achievement for all pupils,
35 including those at risk of academic failure.

36 (d) The local control funding formula has been passed in an
37 effort to reform school finance and to direct funding directly to
38 at-risk pupil populations as outlined in Section 42238.07 of the

1 Education Code. This section states that the regulations shall
2 require a school district “to increase or improve services for
3 unduplicated pupils.” Research shows that efforts to improve
4 school climate, safety, and learning are not separate endeavors.
5 They must be designed, funded, and implemented as a
6 comprehensive schoolwide approach. School districts must work
7 to ensure through their local control and accountability plans that
8 pupils have access to universal, targeted, and individualized
9 psychological, behavioral, and counseling services and support
10 that will increase their chances for academic improvement.

11 (e) SW-PBIS is a multitiered framework for creating positive
12 school cultures. SW-PBIS is a decisionmaking framework that
13 guides selection, integration, and implementation of the best
14 evidence-based academic and behavioral practices for improving
15 important academic and behavior outcomes for all pupils. The
16 SW-PBIS approach requires the implementation of preventative
17 and proactive approaches to discipline and positive discipline
18 methods. In doing so, SW-PBIS changes the belief systems and
19 behavior of school staffs, pupils, and the community, resulting in
20 positive, productive citizens, and safer schools.

21 (f) SW-PBIS can support important local control and
22 accountability plan priority areas by providing local schools and
23 districts with an evidence-based framework to produce targeted
24 pupil behavioral and academic outcomes. SW-PBIS provides an
25 operational framework for achieving these outcomes.

26 (g) SW-PBIS fosters local control for school climate, academics,
27 and behavior. SW-PBIS provides an operational framework and
28 a set of sustainable schoolwide practices for achieving these
29 outcomes. The schoolwide practices are research-based, but are
30 developed and implemented by the local school team of teachers,
31 parents, administrators, school psychologists, school counselors,
32 and pupils to reflect the culture and values of their schools.

33 (h) SW-PBIS has national support and has been defined,
34 described, and researched since its introduction in the
35 reauthorization of the Individuals with Disabilities Education Act
36 of 1997. SW-PBIS research and training is supported by the Office
37 of Special Education Programs (OSEP), United States Department
38 of Education, through the OSEP Technical Assistance Center.
39 School psychologists have been leaders in SW-PBIS professional

- 1 development and systems implementation in schools and districts
2 throughout the state.
- 3 (i) (1) SW-PBIS emphasizes four integrated elements:
4 (A) Data for decisionmaking.
5 (B) Measurable outcomes supported and evaluated by data.
6 (C) Practices with evidence that these outcomes are achievable.
7 (D) Systems that efficiently and effectively support
8 implementation of these practices.
- 9 (2) These four elements are guided by six core principles, as
10 follows:
11 (A) Develop a continuum of scientifically based behavior and
12 academic interventions and supports.
13 (B) Use data to make decisions and solve problems.
14 (C) Arrange the environment to prevent the development and
15 occurrence of problem behavior; increase supervision where
16 needed.
17 (D) All school staff teach and encourage prosocial skills and
18 behaviors in all settings on campus, and before and after school.
19 (E) Implement evidence-based behavioral practices with fidelity
20 and accountability.
21 (F) Screen universally and monitor pupil performance and
22 progress continuously.
- 23 (j) Schools that have established and maintained SW-PBIS
24 systems with integrity have teaching and learning environments
25 that are less reactive, aversive, punitive, dangerous, and
26 exclusionary, are more engaging, responsive, preventive,
27 productive, and participatory, address classroom management and
28 disciplinary issues such as attendance, cooperation, participation,
29 and meeting positive expectations, improve support for pupils
30 whose behavior requires more specialized or intensive assistance
31 for emotional and behavioral disorders and mental health issues,
32 and maximize academic engagement and achievement for all
33 pupils.
- 34 SEC. 2. Chapter 19 (commencing with Section 53330) is added
35 to Part 28 of Division 4 of Title 2 of the Education Code, to read:

1 CHAPTER 19. SCHOOLWIDE POSITIVE BEHAVIOR INTERVENTION
2 AND SUPPORT
3

4 53330. (a) To the extent that one-time funding is made
5 available in the Budget Act of 2014, the department shall apportion
6 funds to a designated county office of education to be the fiduciary
7 agent for the Schoolwide Positive Behavior Intervention and
8 Support (SW-PBIS) program. The designated county office of
9 education shall be chosen by the Superintendent from county
10 offices that apply for designation under this chapter. The designated
11 county office of education shall be in charge of establishing specific
12 professional development activities that will lead to statewide
13 professional development support structures allowing for the
14 development and expansion of SW-PBIS efforts in each region of
15 the state.

16 (b) This professional development and outreach effort shall
17 build upon existing statewide organizations, networks, and regional
18 organizations that are providing services related to SW-PBIS and
19 other mental health approaches. The goal would be to organize
20 SW-PBIS trainings and resources to be disseminated on a regional
21 basis. These trainings, associated materials, and research shall
22 educate participants on how to have SW-PBIS support local control
23 and accountability plan strategic goals in alignment with a
24 multitiered support system framework.

25 (c) The designated county office of education shall consult with
26 the K-12 Student Mental Health Initiative, the National Alliance
27 on Mental Health Illness, the California Technical Assistance
28 Center on SW-PBIS, the California County Superintendents
29 Educational Services Association, the California Mental Health
30 Directors Association, the United Advocates for Children and
31 Families, and other nonprofit agencies throughout the state. The
32 designated county office of education shall also select an advisory
33 committee made up of stakeholders and mental health professionals
34 who have participated in the development and expansion of
35 SW-PBIS programs to assist in the planning and implementation
36 of this project.

37 (d) Within the context of a state-level plan, funding shall be
38 targeted to all of the following critical activities:

39 (1) Explaining the importance of linking SW-PBIS efforts with
40 local control funding formula planning.

- 1 (2) Creating broad exposure to SW-PBIS, which would include
2 pamphlets, videos, Internet Web site creation, webinars, and
3 newsletters.
- 4 (3) Creating regional conferences on SW-PBIS implementation
5 that would provide free training for teachers, school psychologists,
6 and administrators.
- 7 (4) Establishing stipends for release time for school personnel
8 attending these workshops.
- 9 (5) Developing best practices of current district-level SW-PBIS
10 systems and ensure that these best practices are widely
11 disseminated.
- 12 (6) Establishing a cohort of trainers that can be available to
13 work directly with local school districts seeking to implement
14 SW-PBIS.
- 15 (7) Establishing a repository for the collection and dissemination
16 of SW-PBIS best practices.
- 17 (e) The designated county office of education, working in
18 cooperation with the Department of Finance, the State Department
19 of Education, and the Legislative Analyst, shall analyze the relevant
20 data on the success of SW-PBIS at both the state and national
21 levels, and shall establish a set of best practices to be made
22 available to school districts and consortia of districts to expand
23 current mental health programs and to use as the foundation of
24 addressing school discipline issues including school violence,
25 suspensions, expulsions, and bullying.
- 26 (f) The Legislative Analyst's Office shall review the impacts
27 of this professional development effort and shall report to the
28 Governor and the Legislature by June 30, 2016, on the breadth
29 and best practices of the training.

O

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



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:

- Enables exploitation of disabled workers
- Perpetuates a degrading view point of disabled persons instead of recognizing our fundamental equity
- The program lacks oversight and a strong appeals process
- 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 the 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 sheltered 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

Laurel Brodzinsky, Office of Asm. Lorena Gonzalez
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Assembly Joint Resolution

No. 36

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.

O

ASSEMBLY BILL

No. 2359

Introduced by Assembly Member Rodriguez

February 21, 2014

An act to add Section 4645 to the Welfare and Institutions Code, relating to services for the developmentally disabled.

LEGISLATIVE COUNSEL'S DIGEST

AB 2359, as introduced, Rodriguez. Services for the developmentally disabled: regional centers.

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.

Existing law, the Lanterman Developmental Disabilities Services Act, requires the state to contract with appropriate agencies, including regional centers, to provide fixed points of contact in the community for persons with developmental disabilities and their families, to the end that these persons may have access to the services and support best suited to them throughout their lifetime. Existing law provides that it is the intent of the Legislature that the network of regional centers for

persons with developmental disabilities and their families be accessible to every family in need of regional center services and that the design and activities of regional centers reflect a strong commitment to the delivery of direct service coordination.

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.

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

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

- 1 SECTION 1. Section 4645 is added to the Welfare and
- 2 Institutions Code, to read:
- 3 4645. Notwithstanding any other law, a regional center shall
- 4 ensure that any person or entity hired by, or contracted with, the
- 5 regional center to provide services and support to individuals with
- 6 developmental disabilities provide these services and support in a
- 7 manner consistent with all state and federal laws and regulations
- 8 applicable to developmental centers.

O