
SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair
2017 - 2018 Regular

Bill No: AB 435 **Hearing Date:** June 21, 2017
Author: Thurmond
Version: May 2, 2017
Urgency: No **Fiscal:** Yes
Consultant: Olgalilia Ramirez

Subject: Child care subsidy plans: Counties of Alameda, Contra Costa, Marin, and Sonoma

NOTE: This bill has been referred to the Committees on Education and Human Services. A "do pass" motion should include referral to the Committee on Human Services.

SUMMARY

This bill modifies Alameda County's existing authorization to create a subsidized child care pilot program and authorizes the Counties of Contra Costa, Marin and Sonoma to establish a seven-year pilot program for purposes of developing and implementing an individualized county child care subsidy plan that meets the particular needs of families in those counties.

BACKGROUND

Existing law:

- 1) Establishes the Child Care and Development Services Act to provide child care and development services as part of a coordinated, comprehensive, and cost-effective system serving children from birth to 13 years old and their parents, and including a full range of supervision, health, and support services through full-and part-time programs. (Education Code Section (EC) § 8200 *et seq.*)
- 2) Defines "child care and development services" to mean services designed to meet a wide variety of children's and families' needs while parents and guardians are working, in training, seeking employment, incapacitated, or in need of respite. (EC § 8208)
- 3) States the intent of the Legislature that all families have access to child care and development services, through resource and referral where appropriate, and regardless of demographic background or special needs, and that families are provided the opportunity to attain financial stability through employment, while maximizing growth and development of their children, and enhancing their parenting skills through participation in child care and development programs. (EC § 8202)
- 4) Establishes several programs providing subsidized child care and development services that serve low-income families who are working, seeking work, in training, or providing community service. These programs are administered by

the California Department of Education (CDE) and require the Superintendent of Public Instruction (SPI) to adopt rules and regulations on eligibility, enrollment, family fees, provider rates, and priority services. (EC § 8235 and 8263)

- 5) Requires the Superintendent of Public Instruction to administer general child care and development programs to include, among other things as specified, age-and developmentally-appropriate activities, supervision, parenting education and involvement, and nutrition. Further allows such programs to be designed to meet child-related needs identified by parents or guardians, as specified. (EC § 8240 and 8241)
- 6) To allow for maximum parental choice authorizes the operation of Alternative Payment Programs (APPs) and provision of alternative payments and support services to parents and child care providers by local government agencies or non-profit organizations that contract with CDE. (EC § 8220)
- 7) Establishes rules and requirements for APPs and providers, as contracted agencies with CDE, to observe, including but not limited to accounting and auditing requirements, attendance monitoring requirements, referral requirements where applicable, and reimbursement and payment procedures. (EC § 8220 *et seq.*)
- 8) Requires the Superintendent to establish a family fee schedule for subsidized child care, as specified, contingent on income and subject to a cap. (EC § 8273)
- 9) Establishes the San Mateo County, San Francisco, Alameda County, and Santa Clara County individualized county child care subsidy plan pilot projects. (EC § 8347 *et seq.*, 8335 *et seq.*, 8340 *et seq.*, and 8332 *et seq.*)

ANALYSIS

This bill:

Authorization for Counties of Contra Costa, Marin and Sonoma

- 1) Authorizes the Counties of Contra Costa Marin and Sonoma to establish a seven-year pilot program through the development of an individualized county child care subsidy plan that meets the particular needs of families in those counties that include all of the following:
 - a) An assessment to identify the county's goal for its subsidized child care system as described.
 - b) A local policy to eliminate state-imposed regulatory barriers to the county's achievement of its desired outcomes for subsidized child care. This bill requires that local policy, among other things, to supersede state law concerning child care subsidy programs with regard only to the following factors:
 - i) Eligibility criteria, including, but not limited to, age, family size, time

limits income level, and special needs considerations.

- ii) Fees, including, but not limited to, families fees, sliding scale fees, and copayments for those families.
 - iii) Reimbursement rates.
 - iv) Families with children enrolled in part-day California state preschool programs services, may be eligible for up to two 180 day periods within a 24 month period without the family being certified as a new enrollment each year.
- c) Recognition that all funding sources utilized by contracts that provide child care and development services in the county are eligible to be included in the county's plan.
 - d) Establishment of measurable outcomes to evaluate the success of the plan to achieve the county's child care goals and overcome any barriers identified in the state's child care subsidy system.
 - e) States that the plan, and requirements regarding it, shall not be construed to permit the county to change the regional market rate survey results for the county.
- 2) Requires that the plan be submitted to the specified local planning council for approval and upon approval the county board of supervisors is required to do all of the following:
 - a) Hold at least one public hearing on the plan.
 - b) Submit an approved plan to the California Department of Education's (CDE) Early Education and Support Division (EESD) for review provided that the board votes in its favor.
 - 3) Requires the EESD to review and either approve or disapprove any modification of the plan within 30 days of receiving it. Specifies that the EESD may only disapprove those portions of the plan that are not in conformance with the provisions of this or that are in conflict with federal law.
 - 4) Requires the county, by the end of the first fiscal year of operation under the approved child care subsidy plan, to demonstrate an increase in the aggregate days a child is enrolled in child care as compared to the enrollment in the final quarter of the 2016-17 fiscal year.
 - 5) Requires a participating contractor to receive any increases or decreases in funding that the contractor would have received had the contract not participated in the plan.

- 6) Makes various legislative findings and declarations related to the unique circumstances in the Counties of Contra Costa, Marin, and Sonoma that condition a special law including due to the high-cost of living in those counties.
- 7) States legislative intent to build a stable, comprehensive, and adequately funded high-quality early learning and educational support system.
- 8) Defines various terms for the purpose of this bill.
- 9) Sunsets the provisions of this bill related to the Counties of Contra, Costa, Marin and Sonoma on January 1, 2025.

Changes to the County of Alameda's existing pilot program

- 10) Deletes the requirement that an agency authorized to apply to the California Department of Education (CDE) to amend its existing contract in order to benefit from Alameda County's local policy to either provide direct services or contracts with licensed providers or centers.
- 11) Authorizes the Alameda County's local policy to supersede state law in order to allow families with children enrolled in-part day California state preschool program services to be ominously eligible for up to two 180-day periods within a 24-month period, as specified.
- 12) Broadens language regarding funding sources that are eligible to be included in the Alameda County's plan to include funding sources utilized by all contractors that provide child care development services in the county.
- 13) Specifies that the local policy developed by Alameda County ensure that families qualifying for California Work Opportunity and Responsibility to Kids (CalWORKS) stages two and three child care are provided the same or higher level of benefit as families that qualify for other subsidized child care programs.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, "the statewide care subsidy system has a single income eligibility criteria, reimbursement and fund restriction. This presents major programs for children, working families and providers in counties where the cost of living is well beyond the state median." First 5 California notes that, "the cost of doing business in Contra Costa, Marin and Sonoma Counties is high. Families who earn just enough to meeting housing costs are deemed ineligible for subsidized child care. Unable to cover programming and operational costs, and therefore close or stop serving children who qualify for the subsidy. Together these counties return approximately \$3.9 million of allocated funds for Title 5 state subsidized child care to the state for fiscal year, which was intended to keep child care facilities open and serve families."

This bill seeks to provide Counties of Contra Costa, Marin and Sonoma limited local flexibility to assess and address local conditions of working families in the county through a child care subsidy pilot plan. The bill additionally makes

changes to the County of Alameda's existing program authorization to include Alternative Payment Programs and ensure all California Work Opportunity and Responsibility to Kids (CalWORKS) families may participate in the flexible eligibility criteria provided under the local policy.

- 2) **Local policy supersedes state law.** The bill provides that the adopted local policy may supersede state law concerning child care subsidy programs with regard to eligibility criteria, fees, reimbursement rates and methods of maximizing efficient use of subsidy funds. Because the details of the policy will be developed as part of a local planning process, the bill does not specify these new criteria. The only state approval of the plan is with the Early Education and Support Division of the California Department of Education (CDE).
- 3) **State subsidized child care.** Families may be eligible for state and federally subsidized child care through participation in CalWORKs or based on income and need for child care services, including state preschool. Income eligibility for families that are not current recipients of CalWORKs is established at 70 percent of the state median income as calculated in 2007-2008 (\$42,216 for a family of three) or if they are recipients of child protective services and if they can show need for child care services.

The state's subsidized child care and development services are delivered to eligible families through two categories of providers, providers with a direct service contract with the CDE (licensed Title 5 programs) and Title 22 (Alternative Payment Programs/vouchers) licensed and licensed-exempt general child care providers. Title 5 child care providers must meet education and training standards that exceed those of Title 22 child care providers (licensed and license-exempt), as well as provide an educational component. Existing law specifies that children are eligible for subsidized child care if the family currently receives aid, meets specified income eligibility requirements, is homeless, or if the child is the recipient of protective services, or has been identified as neglected, abused or exploited (or at risk of such). In addition, the family must be in need of the child care services due to specified social service circumstances, employment training, or other specified needs.

- 4) **Provider reimbursement rates.** California has established two methodologies for determining the reimbursement rates for child care and development services:
 - a) *The Regional Market Rate (RMR).* Title 22 providers are reimbursed at the RMR. The RMR is determined by the RMR survey and varies depending on the geographical location of the provider. The RMR is based on a survey of licensed centers and family child care homes measuring child care rates of similar socioeconomic conditions. Rate ceilings are established for each county according to estimates of the 75th percentile of rates for the various types of child care settings. The county rate ceilings are differentiated by the age of the child (infant, preschool, school age), full-day or part-day care, and frequency of care (days per week). Families may choose a child care provider that charges a rate above the RMR, but the provider would only be reimbursed at the RMR. Current law requires the RMR survey to be updated every two years. The RMR is

currently set to the 75th percentile of the 2014 a) the Regional Market Rate (RMR) survey, thereby providing a lower rate than if based on the most recent survey. This formula is an attempt to ensure that low-income families can receive similar levels of child care service as higher-income families in the same region.

- b) *Standard Reimbursement Rate (SRR)*. Title 5 providers (General Child Care, Migrant Child Care and State Preschool) are reimbursed at the Standard Reimbursement Rate, which is a specific rate established in statute. Child care and development providers that contract directly with the California Department of Education (CDE) must meet Title 5 requirements in addition to those of Title 22 (have units in Early Childhood Education, provide an educational component for child care). Title 5 programs contract with, and receive payments directly from, CDE. These programs receive the same reimbursement rate (depending on the age of the child), no matter where in the state the program is located. Since January 1, 2017, the SRR is \$42.12 per child per day of enrollment.

Many in the field argue that provider reimbursement rates do not keep pace with the actual cost-of-living and reimbursements are insufficient to cover the cost of care and services particularly in counties where the cost-of-living is well beyond the state median.

- 5) *Forgone savings in each county*. This bill would not result in additional state costs. This bill would allow Contra Costa, Marin, and Sonoma Counties to retain unspent child care funds that otherwise would revert to the General Fund. As demonstrated by the existing bay area pilot projects, providing the higher reimbursement rates or child care slots to children from families with higher income, within existing funds, is possible by using unspent funds that would otherwise be returned to the state. Reverted funds result in “savings” to the state but would also result in fewer children served through subsidized child care in that particular county.

According to the Assembly Appropriations Committee fiscal impact statement, “approximately \$5.3 million in subsidized child care funds was returned to the state by these three counties. That funding is a combination of GF, Prop 98 funding and federal funds. Historically, such reversions have been redistributed for child care purposes in subsequent budget years.”

- 6) *Is this the appropriate remedy?* Concerns have been raised that providing relief to individual counties may delay statewide fixes to the broader system and create unnecessary complexities in the already wide reaching structure. In addition to Counties of Monterey, San Benito, Santa Cruz, five other counties are seeking a similar authority that would allow each of those counties flexibility to change local policies different than what is permitted under current law. It is likely that in the years to come other counties will follow suit. While allowing counties to preserve funds for child care purposes is reasonable, the issues raised (i.e. single statewide income eligibility criteria, reimbursement and fund restrictions) with regard to the state’s child care subsidy system are not necessarily unique to those counties but impact counties across the state.

The committee may wish to consider all of the following:

- *Whether a county by county exemption from state law is the appropriate remedy or whether a comprehensive solution is warranted so that every county in the state may benefit from flexibility for local concerns?*
- *Whether the legislature should continue to authorize county level pilots thereby enabling a bifurcated child care system where some counties operate under a local plan and others under the state criteria.*
- *Would a county by county exemption undermine any incentive for a statewide solution to the state's child care system?*
- *If the legislature continues to authorize county level pilots at which point should they be brought to scale, if at all?*
- *Is the county level model feasible for all counties such as those serving a large geographic area (i.e. County of Los Angeles) or a rural county that may not have the infrastructure to administer its own plan?*

- 7) ***Related budget activity.*** Budget trailer bill AB 99 (Ting, et. al. 2017) proposes a series of changes in child care and early education to increase flexibility with programs and increase provider reimbursement rates. Among other things, these changes include the following; 1) updating the state median income for various family sizes; 2) changing the eligibility determination and re-determination requirements for subsidized child care to promote continuity of services for no less than 12 months; 3) raising the regional market rate ceiling the 75th percentile of the 2016 regional market rate survey; and 4) increasing the standard reimbursement rate to reflect increased costs to providers resulting from increases in the state minimum wage.

The committee may wish to consider whether to authorize additional county level plans prior to implementation of the changes proposed for child care and early education in AB 99 (Ting, et. al., 2017).

- 8) ***Existing county-level child care subsidy plans.*** Current law has authorized four Bay Area pilot projects in recognition of the high-cost of living in those counties. AB 1326 (Simitian), Chapter 691, Statutes of 2003, established the San Mateo County individualized county child care subsidy plan pilot project and SB 701 (Migden), Chapter 725, Statutes of 2005, established the San Francisco individualized county child care subsidy plan pilot project. Both pilots were developed to address two significant issues facing subsidized child care in high-cost counties: 1) that low-income families earning just enough to afford housing in a high-cost area may be deemed to earn too much to qualify for assistance with child care by statewide eligibility standards, and 2) that the statewide Standard Reimbursement Rate paid to contracted child care centers and family child care homes is often not sufficient to cover program costs and overhead, particularly in high-cost areas. Both counties would see a portion of their child care subsidy funds go unused as low-income families failed to qualify for

eligibility by uniform statewide criteria, and as provider reimbursement rates made offering subsidized care untenable for some providers.

San Mateo County's and San Francisco's pilot programs, still in operation today, offer them the limited local flexibility to revise eligibility rules and adjust provider rates and family fees within the context of local evaluation and assessment and heightened state oversight. Thus, the counties are able to reinvest otherwise-unused funds through increased reimbursement rates. Both San Mateo County and San Francisco are also allowed flexibility regarding eligibility rules. San Mateo County and San Francisco currently set their income eligibility thresholds at 85 percent of the current state median income, compared to 70 percent as the state does.

Both the San Mateo County and San Francisco pilot programs have shown success in meeting several of their identified goals; while San Francisco's pilot initially met with some challenges, it was reviewed and adjusted, and "Pilot 2.0" has also shown success in meeting goals.

Alameda County recently adopted its own individualized county child care subsidy plan pilot project in 2015, with the passage of AB 833 (Bonta), Chapter 563, Statutes of 2015. The plan was developed over the course of a year, and was approved by the California Department of Education in October 2016. Santa Clara County also adopted an individualized county child care subsidy plan pilot project last year; its local planning council very recently approved the plan.

9) ***Related legislation.***

AB 258 (Arambula, 2017) would authorize the County of Fresno to establish a 7-year pilot program for purposes of developing and implementing an individualized county child care subsidy plan that meets the particular needs of families in those counties. It is currently set to be heard in Senate Education Committee on June 21, 2017.

AB 300 (Caballero, 2017) would establish the Monterey County, San Benito County, and Santa Cruz County individualized county child care subsidy plan pilot projects, to sunset 2025, and would make changes to Santa Clara County's subsidized child care pilot program. It is currently set to be heard in Senate Education Committee on June 21, 2017.

AB 377 (Frazier, 2017), would establish the San Diego County and Solano County individualized county child care subsidy plan pilot projects, to sunset 2025. It is currently set to be heard in the Senate Education Committee on June 21, 2017.

SUPPORT

Alameda County Board of Supervisor
Bay Area Hispano Institute for Advancement
Cambridge Community Center

Children Now
Concord Child Care Center, Inc.,
Contra Costa County
Contra Costa County Office of Education
County of Sonoma Commission on the Status of Women
Early Edge California
First 5 Association of California
First 5 California
First 5 Contra Costa Child and Families Commission
First 5 Marin Children and Families Commission
Local Early Education Planning Council of Santa Clara County
Marin County Board of Supervisors

OPPOSITION

California Child Development Administrators Association
Child Care Alliance Los Angeles

-- END --