
SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair

2017 - 2018 Regular

Bill No: AB 2292 **Hearing Date:** June 13, 2018
Author: Aguiar-Curry
Version: April 4, 2018
Urgency: No **Fiscal:** Yes
Consultant: Olgalilia Ramirez

Subject: Child care: reimbursement rates: startup costs: grants.

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 establishes the Family Child Care Recruitment and Training Program of 2018 to recruit, train and support new family child care providers; adjusts the reimbursement rate for infant and toddler care; and increases access to inclusive early care and education environments and infant and toddler care by providing grants for one-time infrastructure costs.

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 including a full range of supervision, health, and support services through full- and part-time programs. (Education Code § 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 (j))
- 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) 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)
- 5) Creates the California Child Care Initiative Project as a project to expand the role and functions of selected resource and referral agencies in activities to aid communities in increasing their capability in the number of child care spaces available and the quality of child care services offered. (EC § 8215)
 - 6) Requires the Superintendent of Public Instruction to implement a plan that establishes reasonable standards and assigned reimbursement rates for child care and development services, to vary by length of program year and hours of service, and establishes amounts for, and provides for an annual cost-of-living adjustment to, the standard reimbursement rate. (EC § 8265)
 - 7) Establishes adjustment factors to reimbursement rates for child care and development services, applied by multiplying the applicable adjustment factor by the provider agency's reported child days of enrollment for the child(ren) to whom the adjustment factor applies, in order to reflect the additional expense of serving children of specific ages and with certain needs including, as specified: infants served in child day care centers; toddlers served in child day care centers; infants and toddlers served in family child care homes; children between the ages of 0 and 21 with exceptional needs; children between the ages of 0 and 21 with severe disabilities; children between the ages of 0 and 14 at risk of neglect, abuse, or exploitation; and limited-English-speaking and non-English-speaking children between 2 years of age and kindergarten age. Further, prohibits the days of enrollment for children who meet more than one adjustment-factor criteria from being adjusted more than once, and requires the increase in reimbursement amounts resulting from application of the adjustment factor(s) to be used to serve each child for whom an adjustment factor is claimed. (EC § 8265.5)
 - 8) Establishes in federal law the Individuals with Disabilities Education Act (IDEA) to ensure the provision of free appropriate public education to children with disabilities that is tailored to meet their needs. (20 U.S.C. §1400 *et seq.*)
 - 9) Requires through state and federal law that children with exceptional needs between the ages of three and five be provided with a free and appropriate education. (EC § 56026)
 - 10) Establishes under federal law the Temporary Assistance for Needy Families program to provide aid and welfare-to-work services to eligible families. (42 U.S.C. 601 *et seq.*)

ANALYSIS

This bill:

Family Child Care Recruitment and Training Program

- 1) Establishes in the California Department of Education (CDE) of the Family Child Care Recruitment and Training Program of 2018, to be administered by the Superintendent for purposes of supporting the recruitment and training of a new generation of licensed family child care providers and specifies that upon appropriation by the Legislature for these purposes, the program shall provide resources in accordance with the Child Care Initiative Project pursuant to current law, conduct outreach, recruitment and business training, and provide startup costs and resources to new family child care providers in the state.

Reimbursement Rate Adjustment Factors

- 2) Revises reimbursement rate adjustment factors for subsidized child care as follows:
 - a) Deletes the adjustment factor specific to children between the ages of 0 and 36 months in family child care homes, and instead applies the separate adjustment factors for infants and toddlers to all applicable child care settings.
 - b) Increases the adjustment factor for infants who are 0 to 18 months of age from 1.7 to 2.44 regardless of the setting.
 - c) Increases the adjustment factor for toddlers between the ages of 18 and 36 months from 1.4 to 1.83 regardless of the setting.

Early Education Expansion Program

- 3) Establishes the Early Education Expansion Program for purposes of increasing access to inclusive early care and education programs and increasing early learning infrastructure capacity in high-need communities.
- 4) Requires CDE to use funds appropriated in the annual Budget Act or another statute to implement Early Education Expansion program and requires these funds to be available for encumbrance until June 30, 2023.
- 5) Requires, at a minimum, an applicant include all of the following information in its application:
 - a) A proposal to increase access to subsidized inclusive early care and education programs for children up to five years of age, or subsidized infant and toddler early care and education programs, in low-income and high-need communities.
 - b) The number of additional subsidized children proposed to be served and the number of children with exceptional needs intended to be served initially.
 - c) A plan to fill and sustain subsidized spaces or programs created by grant

funds beyond the grant period. Subsidies may be funded with private, local, state, or federal funds, so long as a reasonable expectation of sustainability is demonstrated.

- d) The inclusion of a set-aside of resources to invest in professional development, including, but not limited to, for age-appropriate inclusive practices, as specified.
- 6) Requires grants to be awarded on a competitive basis with priority given to applicants with a demonstrated need for expanded access to inclusive early care and education or infant and toddler care, as well as applicants that represent a consortium of local partners.
 - 7) Requires grants be used for one-time infrastructure costs only, including, but not limited to, adaptive and age-appropriate facility renovations or new construction, adaptive and age-appropriate equipment, staff recruitment and professional development.
 - 8) Requires Early Education Expansion Program expenditures to comply with federal statute governing Temporary Assistance for Needy Families.
 - 9) Requires that a grant recipient commit to provide program data, as specified by the California Department of Education (CDE), as a condition of the receipt of grant funding.

Early Education Expansion Program for Local Educational Agencies

- 10) Establishes the Early Education Expansion Program for Local Educational Agencies is hereby established for the purpose of increasing access to inclusive early care and education programs and increasing early learning infrastructure capacity in high-need communities.
- 11) Requires the department to use funds appropriated in the annual Budget Act or another statute to implement the Early Education Expansion Program for LEAs and requires that these funds be available for encumbrance until June 30, 2023.
- 12) Requires CDE's Special Education Division and Early Education and Support Division to provide guidance to local educational agencies on serving young children with exceptional needs in the least restrictive environment, as required by the federal Individuals with Disabilities Education Act.
- 13) Requires, at a minimum, an applicant to be a local educational agency and include all of the following information in its grant application.
 - a) A proposal to increase access to subsidized inclusive early care and education programs for children up to five years of age, or subsidized infant and toddler early care and education programs, in low-income and high-need communities.
 - b) The number of additional subsidized children proposed to be served.

- c) A plan to fill and sustain subsidized programs created by grant funds beyond the grant period. Subsidies may be funded with private, local, state, or federal funds so long as reasonable expectation of sustainability is demonstrated.
 - d) The identification of resources necessary to support lead agency professional development, including, but not limited to, professional development to allow staff to develop the knowledge and skills required to implement effective inclusive and age-appropriate practices, and fiscal sustainability.
- 14) Prohibits anything in the provisions of the bill related to the Early Education Expansion Program for Local Education Agencies (LEAs) from prohibiting an LEA from applying on behalf of a consortium of providers within the local educational agency's program area, including agencies that will provide inclusive early care education programs on behalf of the applicant.
- 15) Requires grants to be awarded on a competitive basis with priority given to:
- a) Applicants with a demonstrated need for expanded access to inclusive early care and education that demonstrated a commitment to serving children with exceptional needs or children in infant and toddler early care and education programs.
 - b) Applicants in low-income communities, and applicants that represent a consortium of local partners.
 - c) LEA's that through their applications, demonstrate collaboration between special education and early education staff and that commit to serving a higher proportion of children with exceptional needs in least restrictive early education environments.
- 16) Authorizes grants to be used for one-time infrastructure costs only, including, but not limited to adaptive and age appropriate facility renovations or new construction, adaptive and age-appropriate equipment, staff recruitment, and professional development.
- 17) Prohibits grant funds from being used for ongoing expenditures.
- 18) Requires a grant recipient commit to provide program data, as specified by the department, as a condition of the receipt of grant funding.
- Other*
- 19) States legislative findings and declarations relative to increasing the state's capacity for high-quality early care and education and the importance of inclusive early care and education environments.
- 20) Defines "high need" as identified through the annual county-wide assessments of need for child care conducted by the relevant local planning councils, pursuant to Section 8499.5.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “The standard reimbursement rate, which the state pays to subsidized child care providers through direct contracts, is exceptionally low and inadequate to fully fund high quality child care and development programs. There is a specific problem in the Education Code that leads to the exceptionally low reimbursement rates. Center contractors are using a system similar to K-12 “ADA”, called a standard maximum payment rate (currently \$45.44 per day of enrollment). Infant and toddler classes cost much more per child to operate, due largely to the much smaller teacher or adult to child ratios required. Therefore, there are adjustment factors to increase the standard maximum payment rate for infants and toddlers. The current adjustment factors are not enough to cover the significantly higher costs of infant and toddler centers.”

The author states, “This bill will also create the “Early Education Expansion Program” and the “Early Education Expansion Program for Local Educational Agencies to fund start-up costs for opening new inclusive early child care facilities, as well as converting existing facilities to serve a younger age group. The program will enable child care providers to purchase age-appropriate facilities and infrastructure, start-up support, and professional development for all care settings. Proper training, facilities, and infrastructure will ensure our children receive the best adult-child interaction to support their brain development when they are away from their parents. This bill will also codify and expand the “Family Child Care Recruitment and Training Fund,” dedicating \$6 Million dollars over 5 years to targeted outreach, recruitment, training, supplies, and resources for startup costs to recruit a new generation of family child care providers in California.”

- 2) ***State-subsidized child care.*** Families may be eligible for state-subsidized child care through participation in CalWORKs, or based on income and if they can show need for child care services. Income eligibility for families that are not current recipients of CalWORKs is established, initially, at 70 percent of state median income. Families remain income eligible until their adjusted monthly income exceeds 85 percent of the most recent state median income, adjusted for family size. The state’s child care and development services are delivered to eligible families through two categories of providers, providers with a direct service contract with the California Department of Education (CDE) (licensed Title 5 programs) and voucher-based (Alternative Payment Programs/Title 22) licensed and licensed-exempt. This mixed delivery system serves children from birth to 13 years old allows families to choose from center-based care, family child care homes and in-home care.

This bill, among other things, provides one-time grants for both local educational agencies and other providers to purchase equipment and train staff to expand access to early care and education for infants and toddlers.

- 3) ***Family Child Care.*** Families often choose family child care settings to meet the needs of their children. The Community Care Licensing Division (CCLD) within

the Department of Social Services (DSS) regulates and oversees various licensed child care facilities in the state, including family child care homes. Licensed family child care homes must be in a provider's own home and provide a home-like environment. The types of family child care homes vary widely, from small family child care homes that care for a few children to a large family child care home that cares for up to 14 children depending on their ages. As of June 30, 2017, there were 28,679 licensed family day care homes in the state, with the capacity to serve 298,026 children. The pool of family child care providers declined significantly during the recession and current providers may be nearing retirement. This bill provides one-time funding to recruit, train, and support family child care providers by building upon the Child Care Initiative Project currently administered through the CDE and offered by local resource and referral agencies.

- 4) **Provider Reimbursement Rates.** California has established two methodologies for determining the reimbursement rates for child care and development services. Voucher-based providers are reimbursed using a Regional Market Rate (RMR) survey, with rates varying regionally. Rate ceilings are established for each county according to estimates of the 75th percentile of rates for the various types of child care settings. Direct contract providers are reimbursed using the Standard Reimbursement Rate set by the state. These programs receive the same reimbursement rate, no matter where in the state the program is located but are eligible for adjustments based on needs of the children served. The SRR is \$45.44 per child per day of enrollment.
- 5) **Adjustment factor.** Current law authorizes an adjustment increase in the SRR, recognizing that there are higher costs to serve certain populations, including the following:

Infants (0 – 18 months):	1.7
Toddlers (18 – 36 months):	1.4
Infants and Toddlers in Family child care home:	1.4
Children with exceptional needs (0 to 21 years):	1.2
Severely disabled children (0 – 21 years):	1.5
Child at risk of neglect, abuse, or exploitation (0 – 14):	1.1
Limited-English-speaking (2 – kindergarten age)	1.1

This bill increases the adjustment factor specifically for toddlers 18 to 36 months from 1.4 to 1.83 regardless of setting and for infants who are 0 to 18 months from 1.7 to 2.44 also regardless of setting.

- 6) **Serving children with unique needs.** State and federal law require local educational agencies (LEA) to provide services for preschool-age students with exceptional needs in a least restrictive environment. Federal guidance notes that the LEA responsible for providing education to a preschool child with a disability must ensure that services are provided in the least restrictive environment where the child's unique needs can be met. Children with disabilities may be served through the state's subsidized child care or State Preschool programs. From birth through age two, children with exceptional needs generally receive support through regional developmental centers or sometimes through LEAs. This

support may be a full-day program or a targeted intervention that a child would be provided on a regular basis with families potentially also utilizing mainstream options for child care. When children with disabilities turn three years of age, they are able to participate in programs provided by their local educational agency (LEA) either through special day programs, generally for more intensive support, or with targeted support such as speech therapy. Providers who serve children with special needs do so at a higher reimbursement rate, an adjustment factor to the rate of 1.2 for children with exceptional needs, and 1.5 for severely disabled children.

This bill establishes two grant programs (LEAs and non-LEAs) for the purposes of increasing access to inclusive early care and education programs and increasing early learning infrastructure capacity in high-need communities. Specifically, this bill provides one-time grants to providers committing to serving children (0 to five) with exceptional needs with access to one-time infrastructure grant funds.

- 7) ***Related budget activity.*** Substantially similar to this bill, the Governor's Budget proposal provides a total of \$167 million in one-time funding for competitive grants to LEAs and non-LEAs to increase the availability of inclusive early care and education settings for children from birth to five years old in low-income and high-need communities. Increases to the adjustment factor are also being discussed through the budget process. The infant rate adjustment factor would be increased from 1.7 to 2.44 and the toddler rate adjustment factor from 1.4 to 1.8. In addition, the adjustment factor for children with exceptional needs would be increased from 1.2 to 1.54 and the adjustment factor for severely disabled children would be increased from 1.5 to 1.93. It's unclear to committee staff whether this bill compliments or competes with related budget activity.

SUPPORT

2020 Mom
 Advancement Project
 Alameda County Board of Supervisors
 CAAEYC
 Cal Poly Pomona Children's Center
 California Alternative Payment Program Association
 California Child Development Administrators Association
 California Community Colleges Early Childhood Educators
 California Federation of Teachers
 California State Alliance of YMCAs
 Central Valley Children's Services Network
 Child Action, Inc.
 Child Care Alliance of Los Angeles County
 Child Care Resource Center
 Child Development Consortium of Los Angeles, Inc.
 Child Development Resources of Ventura County
 Child360
 Children Now

Children's Council of San Francisco
Choices for Children
CocoKids
Common Sense Kids Action
Community Action Partnership of San Luis Obispo County, Inc.
Community Child Care Council (4Cs) of Alameda County
Concord Child Care Center, Inc.
Crystal Stairs, Inc.
Early Edge California
First 5 California
First 5 Humboldt
First 5 LA
First 5 Mono County
First 5 Placer Children and Families Commission
First 5 Sacramento
First 5 San Bernardino
First 5 San Mateo County
First 5 Santa Clara County
First 5 Santa Cruz County
First 5 Sonoma County
Go Kids
Kidango
League of Women Voters of California
Legislative Women's Caucus
Los Angeles County Office of Education
Norco College
Options for Learning
San Francisco Childcare Planning and Advisory Council
San Francisco Human Services
San Mateo County Child Care Partnership Council
SEIU California
Strong Start of Santa Clara County
The California Kindergarten Association
UDW/AFSCME Local 3930
United Way
University of New England
VIP Tots
Wu Yee Children's Services
Young Horizons Child Development Centers
Zero to Three

OPPOSITION

None received

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