

Senate Bill No. 701

CHAPTER 725

An act to add and repeal Article 15.2 (commencing with Section 8335) to Chapter 2 of Part 6 of the Education Code, relating to child care, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 7, 2005. Filed with
Secretary of State October 7, 2005.]

LEGISLATIVE COUNSEL'S DIGEST

SB 701, Migden. Child care subsidies: City and County of San Francisco: pilot project.

Existing law requires the Superintendent of Public Instruction to adopt rules and regulations with respect to eligibility, enrollment, and priority of services for federal and state subsidized child care programs.

Existing law authorizes the County of San Mateo, as a pilot project, to develop and implement an individualized county child care subsidy plan.

This bill would, in addition, authorize the City and County of San Francisco, as a pilot project, to develop and implement an individualized county child care subsidy plan.

The bill would require the plan to ensure that child care subsidies received by the City and County of San Francisco are used to address local needs, conditions, and priorities of working families in the community. The bill would require the city and county, prior to implementing the plan, to develop a plan with specified elements, including development of local policies that may, except as specified, supersede existing law with regard to eligibility requirements, fees, reimbursement rates, and methods of maximizing use of funds. The bill would require the plan to be approved by the local child care planning council and the Child Development Division of the State Department of Education, as provided. The bill would require the Legislative Analyst and the Senate Office of Research to review the data contained in the child care subsidy plan before the plan is submitted to the local child care planning council for approval. The bill would require the city and county to submit annual reports to the Legislature, the State Department of Social Services, and the State Department of Education that summarize the success of the plan and to submit a final report to those entities on or before December 31, 2010.

This bill would authorize the City and County of San Francisco to implement the plan until January 1, 2011, as specified. The bill would provide for the repeal of its provisions on January 1, 2013. The bill would provide that a child who enrolls in subsidized child care in the City and County of San Francisco after January 1, 2011, may not be enrolled in the pilot program and is subject to existing state laws and regulations regarding child care subsidies.

This bill would make legislative findings and declarations regarding the need for special legislation.

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

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

SECTION 1. Article 15.2 (commencing with Section 8335) is added to Chapter 2 of Part 6 of the Education Code, to read:

Article 15.2. Child Care Subsidy Plan for the City and County of San Francisco

8335. The City and County of San Francisco may, as a pilot project, develop and implement an individualized county child care subsidy plan. The plan shall ensure that child care subsidies received by the city and county are used to address local needs, conditions, and priorities of working families in the community.

8335.1. Prior to implementing the local subsidy plan, the City and County of San Francisco, in consultation with the department, shall develop an individualized county child care subsidy plan for the city and county that includes the following four elements:

(a) An assessment to identify the city and county's goal for its subsidized child care system. The assessment shall examine whether the current structure of subsidized child care funding adequately supports working families in the city and county and whether the city and county's child care goals coincide with the state's requirements for funding, eligibility, priority, and reimbursement. The assessment shall also identify barriers in the state's child care subsidy system that inhibit the city and county from meeting its child care goals. In conducting the assessment, the city and county shall consider all of the following:

- (1) The general demographics of families who are in need of child care, including employment, income, language, ethnic, and family composition.
- (2) The current supply of available subsidized child care.
- (3) The level of need for various types of subsidized child care services including, but not limited to, infant care, after-hours care, and care for children with exceptional needs.
- (4) The city and county's self-sufficiency income level.
- (5) Income eligibility levels for subsidized child care.
- (6) Family fees.
- (7) The cost of providing child care.
- (8) The regional market rates, as established by the department, for different types of child care.
- (9) The standard reimbursement rate or state per diem for centers operating under contracts with the department.

(10) Trends in the county's unemployment rate and housing affordability index.

(b) Development of a local policy to eliminate state-imposed regulatory barriers to the city and county's achievement of its desired outcomes for subsidized child care.

(1) The local policy shall do all of the following:

(A) Prioritize lowest income families first.

(B) Follow the family fee schedule established pursuant to subdivision (f) of Section 8263 for those families that are income eligible, as defined by Section 8263.1.

(C) Meet local goals that are consistent with the state's child care goals.

(D) Identify existing policies that would be affected by the city and county's child care subsidy plan.

(E) (i) Authorize any agency that provides child care and development services in the city and county through a contract with the department to apply to the department to amend existing contracts in order to benefit from the local policy once it is adopted.

(ii) The department shall approve an application to amend an existing contract if the child care subsidy plan is approved pursuant to subdivision (b) of Section 8335.3, or modified pursuant to subdivision (c) of Section 8335.3.

(iii) The contract of a department contractor who does not elect to request an amendment to its contract remains operative and enforceable.

(2) (A) The city and county shall, by the end of the first fiscal year of operation under the approved child care subsidy plan, demonstrate an increase in the aggregate child days of enrollment in the county as compared to the enrollment in the final quarter of the 2004-05 fiscal year.

(B) The amount of the increase shall be at least equal to the aggregate child days of enrollment in the final quarter of the 2004-05 fiscal year for all contracts amended as provided in subparagraph (E) of paragraph (1), under which the contractor receives an increase in its reimbursement rate, times 2 percent.

(3) The local policy may supersede state law concerning child care subsidy programs with regard only to the following factors:

(A) Eligibility criteria including, but not limited to, age, family size, time limits, income level, inclusion of former and current CalWORKs participants, and special needs considerations, except that the local policy may not deny or reduce eligibility of a family that qualifies for child care pursuant to Section 8353. Under the local policy, a family that qualifies for child care pursuant to Section 8354 shall be treated for purposes of eligibility and fees in the same manner as a family that qualifies for subsidized child care on another basis pursuant to the local policy.

(B) Fees including, but not limited to, family fees, sliding scale fees, and copayments for those families that are not income eligible, as defined by Section 8263.1.

(C) Reimbursement rates.

(D) Methods of maximizing the efficient use of subsidy funds, including, but not limited to, multiyear contracting with the department for center-based child care, and interagency agreements that allow for flexible and temporary transfer of funds among agencies.

(c) Recognition that all funding sources utilized by direct service contractors that provide child care and development services in the city and county are eligible to be included in the child care subsidy plan of the city and county.

(d) Establishment of measurable outcomes to evaluate the success of the plan to achieve the city and county's child care goals and to overcome any barriers identified in the state's child care subsidy system. The State Department of Social Services shall have an opportunity to review and comment on the proposed measurable outcomes before they are submitted to the local child care planning council for approval pursuant to Section 8335.3.

8335.2. To ensure that the annual and final reports required pursuant to Section 8335.4 provide useful comparative information, the Legislative Analyst and the Senate Office of Research shall review the evaluation design, the baseline data, and the data collection proposed in the child care subsidy plan of the City and County of San Francisco before the plan is submitted to the local planning council as defined in subdivision (g) of Section 8499, for approval pursuant to Section 8335.3.

8335.3. (a) The plan shall be submitted to the local planning council as defined in subdivision (g) of Section 8499, for approval. Upon approval of the plan by the local planning council, the Board of Supervisors of the City and County of San Francisco shall hold at least one public hearing on the plan. Following the hearing, if the board of supervisors votes in favor of the plan, the plan shall be submitted to the Child Development Division of the department for review.

(b) Within 30 days of receiving the plan, the Child Development Division shall review and either approve or disapprove the plan.

(c) Within 30 days of receiving any modification to the plan, the Child Development Division shall review and either approve or disapprove that modification to the plan.

(d) The Child Development Division may disapprove only those portions of the plan or modifications to the plan that are not in conformance with this article or that are in conflict with federal law.

8335.4. (a) Upon approval of the plan by the Child Development Division of the department, the City and County of San Francisco shall annually prepare and submit to the Legislature, the State Department of Social Services, and the department a report that summarizes the success of the pilot project and the city and county's ability to maximize the use of funds and to improve and stabilize child care in the city and county.

(b) On or before December 31, 2010, the City and County of San Francisco shall submit a final report to the Legislature, the State Department of Social Services, and the department summarizing the

impact of the plan on the child care needs of working families in the city and county.

8335.5. The City and County of San Francisco may implement its individualized child care subsidy plan until January 1, 2011, at which date the city and county shall terminate the plan. Between January 1, 2011, and January 1, 2013, the city and county shall phase out the individualized county child care subsidy plan and, as of January 1, 2013, shall implement the state's requirements for child care subsidies. A child enrolling for the first time for subsidized child care in the city and county after January 1, 2011, may not be enrolled in the pilot program established pursuant to this article and is subject to existing state laws and regulations regarding child care eligibility and priority.

8335.6. A participating contractor shall receive any increase or decrease in funding that the contractor would have received if the contractor had not participated in the local subsidy plan established by this article.

8335.7. This article shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2013, deletes or extends that date.

SEC. 2. Due to the unique circumstances concerning the City and County of San Francisco, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the Constitution. Therefore, this act is necessarily applicable only to the City and County of San Francisco.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to maintain the integrity of the child care funding system in San Francisco, it is necessary for this act to take effect immediately.