

Assembly Bill No. 260

CHAPTER 731

An act to amend Sections 8335.1, 8335.4, 8335.5, 8335.7, 8344, and 8346 of, and to add and repeal Article 15.4 (commencing with Section 8347) of Chapter 2 of Part 6 of Division 1 of Title 1 of, the Education Code, relating to child care and development services.

[Approved by Governor October 11, 2013. Filed with
Secretary of State October 11, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 260, Gordon. Individualized county child care subsidy plans.

Existing law authorizes the City and County of San Francisco and the County of San Mateo, as pilot projects, to develop and implement individualized county child care subsidy plans for the purpose of ensuring that child care subsidies received in those counties are used to address local needs, conditions, and priorities of working families. The provisions authorizing those pilot projects are similar, but not identical. Existing law repeals the provisions relating to the City and County of San Francisco on January 1, 2018, and repeals the provisions relating to the County of San Mateo pilot project on January 1, 2017.

This bill would require the City and County of San Francisco to terminate the individualized county child care subsidy plan on July 1, 2016, and would require the city and county from July 1, 2016, to July 1, 2018, inclusive, to phase out the plan, and, beginning July 1, 2018, implement the state's requirements for child care subsidies.

The bill would require the City and County of San Francisco to submit a specified report on the pilot project's operation between the 2011–12 and 2013–14 fiscal years to the Legislature, the State Department of Social Services, and the State Department of Education on or before December 31, 2014. The bill would make those provisions relating to the City and County of San Francisco's individualized county child care subsidy plan inoperative on July 1, 2018, and would repeal those provisions on January 1, 2019.

The bill would make those provisions relating to the County of San Mateo inoperative on July 1, 2014, and as of that date, would authorize the County of San Mateo's individualized county child care subsidy plan to continue in accordance with specified requirements until July 1, 2018. The bill would require the Child Development Division of the State Department of Education to review and approve or disapprove modifications to the plan. The bill would require the County of San Mateo to annually prepare and submit to the Legislature, the State Department of Social Services, and the

State Department of Education a report that contains specified information relating to the success of the county's plan.

The bill would also make conforming and related changes and nonsubstantive changes.

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

SECTION 1. Section 8335.1 of the Education Code is amended to read:

8335.1. Before 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.

(C) The amount of the increase shall also be proportional to the total contract maximum reimbursable amount to reflect the changes in the budget allocation for each fiscal year of the pilot project.

(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.

SEC. 2. Section 8335.4 of the Education Code is amended to read:

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) The City and County of San Francisco shall submit a report to the Legislature, the State Department of Social Services, and the department on or before December 31, 2014. The report shall summarize the impact of the plan on the child care needs of working families in the city and county, evaluate the pilot project's operation between the 2011–12 and 2013–14 fiscal years, and provide a recommendation as to whether the pilot project should continue as a permanent program.

SEC. 3. Section 8335.5 of the Education Code is amended to read:

8335.5. The City and County of San Francisco may implement an individualized county child care subsidy plan as a pilot project pursuant to this article until July 1, 2016, at which date the city and county shall terminate the plan. From July 1, 2016, to July 1, 2018, inclusive, the city and county shall phase out the individualized county child care subsidy plan and, beginning July 1, 2018, 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 on and after July 1, 2016, shall not be enrolled in the pilot project established pursuant to this article, and is subject to existing state laws and regulations regarding child care eligibility and priority.

SEC. 4. Section 8335.7 of the Education Code is amended to read:

8335.7. This article shall become inoperative on July 1, 2018, and as of January 1, 2019, is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 5. Section 8344 of the Education Code is amended to read:

8344. The County of San Mateo may implement its individualized county child care subsidy plan as a pilot project pursuant to this article until July 1, 2014, at which date the County of San Mateo may continue to implement the individualized county child care subsidy plan in accordance with the requirements of Article 15.4 (commencing with Section 8347).

SEC. 6. Section 8346 of the Education Code is amended to read:

8346. This article shall become inoperative on July 1, 2014, and as of January 1, 2015, is repealed, unless a later enacted statute, which is enacted

before January 1, 2015, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 7. Article 15.4 (commencing with Section 8347) is added to Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code, to read:

Article 15.4. Individualized County Child Care Subsidy Plan

8347. On and after July 1, 2014, the individualized county child care subsidy plan for the County of San Mateo that was developed as a pilot project pursuant to Article 15.3 (commencing with Section 8340), as that article read on January 1, 2013, may continue in existence and may be implemented in accordance with the provisions of this article. The plan shall ensure that child care subsidies received by the County of San Mateo are used to address local needs, conditions, and priorities of working families in those communities.

8347.1. For purposes of this article, “county” means the County of San Mateo.

8347.2. For purposes of this article, “plan” means an individualized county child care subsidy plan developed and approved under the pilot project described in Section 8347, which includes all of the following:

(a) An assessment to identify the 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 county and whether the 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 county from meeting its child care goals. In conducting the assessment, the 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 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) (1) Development of a local policy to eliminate state-imposed regulatory barriers to the county's achievement of its desired outcomes for subsidized child care.

(2) 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 (g) 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 county's plan.

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

(ii) The department shall approve an application to amend an existing contract if the plan is modified pursuant to Section 8347.3.

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

(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 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 to overcome any barriers identified in the state's child care subsidy system.

8347.3. (a) 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.

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

8347.4. (a) The county 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 county's plan, and the county's ability to maximize the use of funds and to improve and stabilize child care in the county.

(b) (1) The requirement for submitting a report imposed under subdivision (a) is inoperative on January 1, 2018, pursuant to Section 10231.5 of the Government Code.

(2) A report to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

8347.5. 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 plan.

8347.6. This article shall become inoperative on July 1, 2018, and, as of January 1, 2019, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2019, deletes or extends the dates on which it becomes inoperative and is repealed.