

AMENDED IN ASSEMBLY MAY 24, 2013  
AMENDED IN ASSEMBLY APRIL 24, 2013  
AMENDED IN ASSEMBLY APRIL 10, 2013  
AMENDED IN ASSEMBLY MARCH 19, 2013  
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 274**

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**Introduced by Assembly Member Bonilla**  
*(Coauthors: Assembly Members Buchanan and Ian Calderon)*

February 11, 2013

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*An act to amend Section 8208 of, and to add Sections 8221.5, 8227.3, and 8262.3 to, the Education Code, relating to child care and development services.*

LEGISLATIVE COUNSEL'S DIGEST

AB 274, as amended, Bonilla. Child care and development services.

(1) The Child Care and Development Services Act, administered by the State Department of Education, provides that children up to 13 years of age are eligible, with certain requirements, for child care and development services. The act requires the department to contract with local contracting agencies to provide for alternative payment programs, and authorizes alternative payment programs for services provided in licensed centers and family day care homes and for other types of programs that conform to applicable law.

This bill would require child care providers authorized to provide services pursuant to those provisions to submit to the alternative payment program a monthly attendance record or invoice for each child who received services that documents ~~certified needs and~~ hours of care

provided based on need certified by the alternative payment program. The bill would specify the meaning of “attendance” for purposes of reimbursement to providers through an alternative payment program. The bill would require the monthly attendance record or invoice to be signed by to include the dates and times of attendance, and would require verification of attendance to be made by single signature, under penalty of perjury, of both the parent or guardian of the child receiving services and the child care provider once per month to attest that the child’s attendance is accurately reflected. The bill would require that the verification be made by signature and signed, as of the end of each month and under penalty of perjury, by both the parent or guardian and the child care provider. By expanding the scope of the crime of perjury, the bill would impose a state-mandated local program. The bill would require alternative payment providers to accept the monthly attendance record or invoice as documentation of the certified need and hours of care provided.

The bill would also authorize alternative payment programs and providers to maintain records electronically, including, but not limited to, child immunization records.

(2) Existing law authorizes the Superintendent of Public Instruction to enter into and execute local contractual agreements with any public or private entity or agency for the delivery of child care and development services related to the delivery of child care and development services or the furnishing of property, facilities, personnel, supplies, equipment, and administrative services related to the delivery of child care development services.

This bill would require the department, on and after ~~January 1, 2016~~ the date on which the Superintendent determines that the Financial Information System for California has been implemented within the department, at the request of a contractor, to request the Controller to make payments via direct deposit by electronic fund funds transfer, as specified.

(3) 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 no reimbursement is required by this act for a specified reason.

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 8208 of the Education Code is amended*  
2 *to read:*

3     8208. As used in this chapter:

4     (a) “Alternative payments” includes payments that are made by  
5 one child care agency to another agency or child care provider for  
6 the provision of child care and development services, and payments  
7 that are made by an agency to a parent for the parent’s purchase  
8 of child care and development services.

9     (b) “Alternative payment program” means a local government  
10 agency or nonprofit organization that has contracted with the  
11 department pursuant to Section 8220.1 to provide alternative  
12 payments and to provide support services to parents and providers.

13     (c) “Applicant or contracting agency” means a school district,  
14 community college district, college or university, county  
15 superintendent of schools, county, city, public agency, private  
16 nontax-exempt agency, private tax-exempt agency, or other entity  
17 that is authorized to establish, maintain, or operate services  
18 pursuant to this chapter. Private agencies and parent cooperatives,  
19 duly licensed by law, shall receive the same consideration as any  
20 other authorized entity with no loss of parental decisionmaking  
21 prerogatives as consistent with the provisions of this chapter.

22     (d) “Assigned reimbursement rate” is that rate established by  
23 the contract with the agency and is derived by dividing the total  
24 dollar amount of the contract by the minimum child day of average  
25 daily enrollment level of service required.

26     (e) (1) “Attendance” means the number of children present at  
27 a child care and development facility. ~~“Attendance,” for where~~  
28 ~~services are provided.~~

29     (2) For purposes of reimbursement, *attendance* includes excused  
30 absences ~~by~~ of children because of illness, quarantine, illness or  
31 quarantine of their parent, family emergency, or to spend time with  
32 a parent or other relative as required by a court of law or that is  
33 clearly in the best interest of the child.

34     (3) For purposes of reimbursement to providers through an  
35 alternative payment program, *attendance* includes any of the  
36 following:

37     (A) *The hours of service provided that are broadly consistent*  
38 *with certified hours of need.*

1 (B) *For families with variable schedules, the actual days and*  
2 *hours of attendance up to the maximum certified hours.*

3 (C) *In the case of license-exempt providers that provide*  
4 *part-time services, the actual days and hours of attendance.*

5 (4) *For purposes of reimbursement to providers through an*  
6 *alternative payment program, contractors shall not be required*  
7 *to track absences.*

8 (f) “Capital outlay” means the amount paid for the renovation  
9 and repair of child care and development facilities to comply with  
10 state and local health and safety standards, and the amount paid  
11 for the state purchase of relocatable child care and development  
12 facilities for lease to qualifying contracting agencies.

13 (g) “Caregiver” means a person who provides direct care,  
14 supervision, and guidance to children in a child care and  
15 development facility.

16 (h) “Child care and development facility” means a residence or  
17 building or part thereof of a residence or building in which child  
18 care and development services are provided.

19 (i) “Child care and development programs” means those  
20 programs that offer a full range of services for children from  
21 infancy to 13 years of age, for any part of a day, by a public or  
22 private agency, in centers and family child care homes. These  
23 programs include, but are not limited to, all of the following:

24 (1) General child care and development.

25 (2) Migrant child care and development.

26 (3) Child care provided by the California School Age Families  
27 Education Program (Article 7.1 (commencing with Section 54740)  
28 of Chapter 9 of Part 29 of Division 4 of Title 2).

29 (4) California state preschool program.

30 (5) Resource and referral.

31 (6) Child care and development services for children with  
32 exceptional needs.

33 (7) Family child care home education network.

34 (8) Alternative payment.

35 (9) Schoolage community child care.

36 (j) “Child care and development services” means those services  
37 designed to meet a wide variety of needs of children and their  
38 families, while their parents or guardians are working, in training,  
39 seeking employment, incapacitated, or in need of respite. These  
40 services may include direct care and supervision, instructional

1 activities, resource and referral programs, and alternative payment  
2 arrangements.

3 (k) “Children at risk of abuse, neglect, or exploitation” means  
4 children who are so identified in a written referral from a legal,  
5 medical, or social service agency, or emergency shelter.

6 (l) “Children with exceptional needs” means either of the  
7 following:

8 (1) Infants and toddlers under three years of age who have been  
9 determined to be eligible for early intervention services pursuant  
10 to the California Early Intervention Services Act (Title 14  
11 (commencing with Section 95000) of the Government Code) and  
12 its implementing regulations. These children include an infant or  
13 toddler with a developmental delay or established risk condition,  
14 or who is at high risk of having a substantial developmental  
15 disability, as defined in subdivision (a) of Section 95014 of the  
16 Government Code. These children shall have active individualized  
17 family service plans, shall be receiving early intervention services,  
18 and shall be children who require the special attention of adults in  
19 a child care setting.

20 (2) Children 3 to 21 years of age, inclusive, who have been  
21 determined to be eligible for special education and related services  
22 by an individualized education program team according to the  
23 special education requirements contained in Part 30 (commencing  
24 with Section 56000) of Division 4 of Title 2, and who meet  
25 eligibility criteria described in Section 56026 and, Article 2.5  
26 (commencing with Section 56333) of Chapter 4 of Part 30 of  
27 Division 4 of Title 2, and Sections 3030 and 3031 of Title 5 of the  
28 California Code of Regulations. These children shall have an active  
29 individualized education program, shall be receiving early  
30 intervention services or appropriate special education and related  
31 services, and shall be children who require the special attention of  
32 adults in a child care setting. These children include children with  
33 intellectual disabilities, hearing impairments (including deafness),  
34 speech or language impairments, visual impairments (including  
35 blindness), serious emotional disturbance (also referred to as  
36 emotional disturbance), orthopedic impairments, autism, traumatic  
37 brain injury, other health impairments, or specific learning  
38 disabilities, who need special education and related services  
39 consistent with Section 1401(3)(A) of Title 20 of the United States  
40 Code.

1 (m) “Closedown costs” means reimbursements for all approved  
2 activities associated with the closing of operations at the end of  
3 each growing season for migrant child development programs  
4 only.

5 (n) “Cost” includes, but is not limited to, expenditures that are  
6 related to the operation of child care and development programs.  
7 “Cost” may include a reasonable amount for state and local  
8 contributions to employee benefits, including approved retirement  
9 programs, agency administration, and any other reasonable program  
10 operational costs. “Cost” may also include amounts for licensable  
11 facilities in the community served by the program, including lease  
12 payments or depreciation, downpayments, and payments of  
13 principal and interest on loans incurred to acquire, rehabilitate, or  
14 construct licensable facilities, but these costs shall not exceed fair  
15 market rents existing in the community in which the facility is  
16 located. “Reasonable and necessary costs” are costs that, in nature  
17 and amount, do not exceed what an ordinary prudent person would  
18 incur in the conduct of a competitive business.

19 (o) “Elementary school,” as contained in former Section 425 of  
20 Title 20 of the United States Code (the National Defense Education  
21 Act of 1958, Public Law 85-864, as amended), includes early  
22 childhood education programs and all child development programs,  
23 for the purpose of the cancellation provisions of loans to students  
24 in institutions of higher learning.

25 (p) “Family child care home education network” means an entity  
26 organized under law that contracts with the department pursuant  
27 to Section 8245 to make payments to licensed family child care  
28 home providers and to provide educational and support services  
29 to those providers and to children and families eligible for  
30 state-subsidized child care and development services. A family  
31 child care home education network may also be referred to as a  
32 family child care home system.

33 (q) “Health services” include, but are not limited to, all of the  
34 following:

35 (1) Referral, whenever possible, to appropriate health care  
36 providers able to provide continuity of medical care.

37 (2) Health screening and health treatment, including a full range  
38 of immunization recorded on the appropriate state immunization  
39 form to the extent provided by the Medi-Cal Act (Chapter 7  
40 commencing with Section 14000) of Part 3 of Division 9 of the

1 Welfare and Institutions Code) and the Child Health and Disability  
2 Prevention Program (Article 6 (commencing with Section 124025)  
3 of Chapter 3 of Part 2 of Division 106 of the Health and Safety  
4 Code), but only to the extent that ongoing care cannot be obtained  
5 utilizing community resources.

6 (3) Health education and training for children, parents, staff,  
7 and providers.

8 (4) Followup treatment through referral to appropriate health  
9 care agencies or individual health care professionals.

10 (r) “Higher educational institutions” means the Regents of the  
11 University of California, the Trustees of the California State  
12 University, the Board of Governors of the California Community  
13 Colleges, and the governing bodies of any accredited private  
14 nonprofit institution of postsecondary education.

15 (s) “Intergenerational staff” means persons of various  
16 generations.

17 (t) “Limited-English-speaking-proficient and  
18 non-English-speaking-proficient children” means children who  
19 are unable to benefit fully from an English-only child care and  
20 development program as a result of either of the following:

21 (1) Having used a language other than English when they first  
22 began to speak.

23 (2) Having a language other than English predominantly or  
24 exclusively spoken at home.

25 (u) “Parent” means a biological parent, stepparent, adoptive  
26 parent, foster parent, caretaker relative, or any other adult living  
27 with a child who has responsibility for the care and welfare of the  
28 child.

29 (v) “Program director” means a person who, pursuant to Sections  
30 8244 and 8360.1, is qualified to serve as a program director.

31 (w) “Proprietary child care agency” means an organization or  
32 facility providing child care, which is operated for profit.

33 (x) “Resource and referral programs” means programs that  
34 provide information to parents, including referrals and coordination  
35 of community resources for parents and public or private providers  
36 of care. Services frequently include, but are not limited to: technical  
37 assistance for providers, toy-lending libraries, equipment-lending  
38 libraries, toy- and equipment-lending libraries, staff development  
39 programs, health and nutrition education, and referrals to social  
40 services.

1 (y) “Severely disabled children” are children with exceptional  
2 needs from birth to 21 years of age, inclusive, who require intensive  
3 instruction and training in programs serving pupils with the  
4 following profound disabilities: autism, blindness, deafness, severe  
5 orthopedic impairments, serious emotional disturbances, or severe  
6 intellectual disabilities. “Severely disabled children” also include  
7 those individuals who would have been eligible for enrollment in  
8 a developmental center for handicapped pupils under *former*  
9 Chapter 6 (commencing with Section 56800) of Part 30 of Division  
10 4 of Title 2 as it read on January 1, 1980.

11 (z) “Short-term respite child care” means child care service to  
12 assist families whose children have been identified through written  
13 referral from a legal, medical, or social service agency, or  
14 emergency shelter as being neglected, abused, exploited, or  
15 homeless, or at risk of being neglected, abused, exploited, or  
16 homeless. Child care is provided for less than 24 hours per day in  
17 child care centers, treatment centers for abusive parents, family  
18 child care homes, or in the child’s own home.

19 (aa) (1) “Site supervisor” means a person who, regardless of  
20 his or her title, has operational program responsibility for a child  
21 care and development program at a single site. A site supervisor  
22 shall hold a permit issued by the Commission on Teacher  
23 Credentialing that authorizes supervision of a child care and  
24 development program operating in a single site. The Superintendent  
25 may waive the requirements of this subdivision if the  
26 Superintendent determines that the existence of compelling need  
27 is appropriately documented.

28 (2) For California state preschool programs, a site supervisor  
29 may qualify under any of the provisions in this subdivision, or  
30 may qualify by holding an administrative credential or an  
31 administrative services credential. A person who meets the  
32 qualifications of a program director under both Sections 8244 and  
33 8360.1 is also qualified under this subdivision.

34 (ab) “Standard reimbursement rate” means that rate established  
35 by the Superintendent pursuant to Section 8265.

36 (ac) “Startup costs” means those expenses an agency incurs in  
37 the process of opening a new or additional facility before the full  
38 enrollment of children.

1 (ad) “California state preschool program” means part-day and  
2 full-day educational programs for low-income or otherwise  
3 disadvantaged three- and four-year-old children.

4 (ae) “Support services” means those services that, when  
5 combined with child care and development services, help promote  
6 the healthy physical, mental, social, and emotional growth of  
7 children. Support services include, but are not limited to: protective  
8 services, parent training, provider and staff training, transportation,  
9 parent and child counseling, child development resource and  
10 referral services, and child placement counseling.

11 (af) “Teacher” means a person with the appropriate permit issued  
12 by the Commission on Teacher Credentialing who provides  
13 program supervision and instruction that includes supervision of  
14 a number of aides, volunteers, and groups of children.

15 (ag) “Underserved area” means a county or subcounty area,  
16 including, but not limited to, school districts, census tracts, or ZIP  
17 Code areas, where the ratio of publicly subsidized child care and  
18 development program services to the need for these services is  
19 low, as determined by the Superintendent.

20 (ah) “Workday” means the time that the parent requires  
21 temporary care for a child for any of the following reasons:

22 (1) To undertake training in preparation for a job.

23 (2) To undertake or retain a job.

24 (3) To undertake other activities that are essential to maintaining  
25 or improving the social and economic function of the family, are  
26 beneficial to the community, or are required because of health  
27 problems in the family.

28 (ai) “Three-year-old children” means children who will have  
29 their third birthday on or before the date specified of the fiscal  
30 year in which they are enrolled in a California state preschool  
31 program, as follows:

32 (1) November 1 of the 2012–13 fiscal year.

33 (2) October 1 of the 2013–14 fiscal year.

34 (3) September 1 of the 2014–15 fiscal year and each fiscal year  
35 thereafter.

36 (aj) “Four-year-old children” means children who will have  
37 their fourth birthday on or before the date specified of the fiscal  
38 year in which they are enrolled in a California state preschool  
39 program, as follows:

40 (1) November 1 of the 2012–13 fiscal year.

1 (2) October 1 of the 2013–14 fiscal year.  
 2 (3) September 1 of the 2014–15 fiscal year and each fiscal year  
 3 thereafter.

4 (ak) “Local educational agency” means a school district, a  
 5 county office of education, a community college district, or a  
 6 school district on behalf of one or more schools within the school  
 7 district.

8 ~~SECTION 1.~~

9 *SEC. 2.* Section 8221.5 is added to the Education Code, to read:

10 8221.5. (a) Child care providers authorized to provide services  
 11 pursuant to this article shall submit to the alternative payment  
 12 program a monthly attendance record or invoice for each child  
 13 who received services that documents ~~certified needs and~~ hours  
 14 of care ~~provided.~~ *provided based on need certified by the*  
 15 *alternative payment program.*

16 (b) The monthly attendance record or invoice shall ~~be signed~~  
 17 ~~by~~ *include the dates and times of attendance. Verification of*  
 18 *attendance shall be made at the end of each month by single*  
 19 *signature, under penalty of perjury, of both the parent or guardian*  
 20 *of the child receiving services and the child care provider* ~~once per~~  
 21 ~~month to attest that the child’s attendance is accurately reflected.~~  
 22 ~~The verification shall be made by signature and signed, as of the~~  
 23 ~~end of each month of care and under penalty of perjury, by both~~  
 24 ~~the parent or guardian and the child care provider.~~

25 (c) The monthly attendance record *or invoice* may be maintained  
 26 by the child care provider in original format or electronically.

27 (d) The alternative payment provider shall accept the monthly  
 28 attendance record or invoice as documentation of ~~the certified need~~  
 29 ~~and~~ the hours of care provided.

30 (e) *It is the intent of the Legislature, in enacting this section, to*  
 31 *simplify the attendance recording process. Therefore, the adoption*  
 32 *of regulations to implement this section shall not be necessary.*

33 ~~SEC. 2.~~

34 *SEC. 3.* Section 8227.3 is added to the Education Code, to read:

35 8227.3. (a) Alternative payment programs and providers  
 36 operating or providing services pursuant to this article may  
 37 maintain records electronically, subject to compliance with  
 38 necessary state and federal auditing requirements. Records that  
 39 may be maintained electronically include, but are not limited to,  
 40 the following:

- 1 (1) Child immunization records.
- 2 (2) Parental job verification records.
- 3 (3) Parent income verification.
- 4 (4) Parent school or training verifications and attendance
- 5 records.

6 (b) Nothing in this section requires an alternative payment  
 7 program to maintain records electronically.

8 ~~SEC. 3.~~

9 *SEC. 4.* Section 8262.3 is added to the Education Code, to read:

10 8262.3. On and after ~~January 1, 2016~~, *the date on which the*  
 11 *Superintendent determines that the Financial Information System*  
 12 *for California (Fi\$Cal Project) has been implemented within the*  
 13 *department*, at the request of a contractor, for a contract executed  
 14 by the department pursuant to Section 8262, the department shall  
 15 request the Controller to make a payment via direct deposit by  
 16 electronic ~~fund~~ *funds* transfer *through the Fi\$Cal Project* into the  
 17 contractor’s account at the financial institution of the contractor’s  
 18 choice.

19 ~~SEC. 4.~~

20 *SEC. 5.* No reimbursement is required by this act pursuant to  
 21 Section 6 of Article XIII B of the California Constitution because  
 22 the only costs that may be incurred by a local agency or school  
 23 district will be incurred because this act creates a new crime or  
 24 infraction, eliminates a crime or infraction, or changes the penalty  
 25 for a crime or infraction, within the meaning of Section 17556 of  
 26 the Government Code, or changes the definition of a crime within  
 27 the meaning of Section 6 of Article XIII B of the California  
 28 Constitution.