

Introduced by Senator StoneFebruary 27, 2015

An act to amend Sections 4629.7, 4681.1, 4681.6, 4689.8, 4691.9, and 4860 of, and to add Sections 4519.8, 4681.2, 4690.7, 4793, and 4794 to, the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

SB 638, as introduced, Stone. Developmental services: funding.

The Lanterman Developmental Disabilities Services Act requires the State Department of Developmental Services to contract with regional centers to provide services and supports to individuals with developmental disabilities. Under existing law, the regional centers purchase needed services for individuals with developmental disabilities through approved service providers or arrange for those services through other publicly funded agencies.

This bill would require the department to submit a plan to the Legislature by August 1, 2016, to ensure the sustainability, quality, and transparency of community-based services for individuals with developmental disabilities. The bill would require the department to regularly consult with stakeholders in developing the plan and would require the plan to address specified topics, including, among others, recommendations for a comprehensive approach to funding regional center operations in a sustainable and transparent manner that provides incentives for regional centers to deliver high-quality services to consumers.

Existing law requires that contracts or agreements between regional centers and service providers in which the rates between the regional center and the service provider are determined through negotiations to

ensure that not more than 15% of regional center funds be spent on administrative costs, as described.

This bill would instead provide that the percentage of the funds that may be spent on administrative costs varies depending on the total value, annually, of the agreements between the regional center and each service provider.

Existing law establishes specified rates to be paid to certain service providers and the rates to be paid for certain developmental services. Existing law requires that rates to be paid to other developmental service provider either be set by the department or negotiated between the regional center and the service provider. Existing law prohibits certain provider rate increases, but authorizes increases to those rates as necessary to adjust employee wages to meet the state minimum wage law.

This bill would increase the rates established by existing law, as specified, and would require an increase to the rates set by the department and the rates negotiated between regional centers and service providers, as specified. The bill would also require the department, when setting rates for community care facilities serving people with developmental disabilities, to ensure that the rates permit the viability of those facilities by establishing different rates for each facility size, as determined by the number of beds available, that reflect reasonable differences in the cost structure of facilities with differing numbers of beds. The bill would require the department to adopt emergency regulations implementing that provision by July 1, 2016.

Existing law requires each regional center to submit, on or before August 1 of each year, to the department and the State Council on Developmental Disabilities a program budget plan for the subsequent budget year. Existing law provides that, to the extent feasible, all funds appropriated for developmental disabilities programs be allocated to those programs by August 1 of each year and designates the department as the agency responsible for the processing, audit, and payment of funds made available to regional centers.

This bill would require the department to increase the funding paid to a regional center for the regional center's operating budget, beginning January 1, 2016, by 5% above the amount the regional center otherwise would have received under the department's core staffing formula, and, beginning July 1, 2016, by 10% above the amount the regional center otherwise would have received under the department's core staffing formula. The bill would also require the department to increase the

funding provided to a regional center to enable the regional center and the regional center’s purchase-of-service vendors to fund certain costs related to minimum wage requirements.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) California’s vision to promote fulfilling lives for persons
4 with developmental disabilities launched in 1969 with the passage
5 of the Lanterman Developmental Disabilities Services Act,
6 authored by Assembly Member Frank Lanterman and signed by
7 Governor Ronald Reagan. However, the Lanterman Act’s vision
8 is now threatened by neglect of the community service system and
9 wasteful spending on outdated state institutions.

10 (2) The current funding system for regional center operations
11 and for community-based services is inadequate and outdated. The
12 funding currently provided has not kept pace with the cost of
13 delivering high-quality services. Funding formulas and ratesetting
14 methods are archaic and ill-suited to promote an effective and
15 efficient community system that delivers high-quality services to
16 consumers.

17 (3) The result of inadequate funding for community services
18 and onerous requirements on providers can be seen in the decline
19 of the number of vendors serving the community. As documented
20 in the January 2015 Fact Book issued by the State Department of
21 Developmental Services, the number of vendors declined by 30
22 percent from 2009–10 to 2013–14, inclusive despite an increase
23 of 12 percent in the number of consumers served in the community.

24 (4) California must recommit itself to vibrant and sustainable
25 community services that maximize opportunities for persons with
26 developmental disabilities to thrive in their own neighborhoods.

27 (5) It is imperative that the Legislature take action to ensure the
28 viability of the community service system by paying sustainable
29 reimbursement rates, streamlining requirements for community
30 service providers, and fairly funding the regional center system to
31 administer services.

1 (b) Accordingly, it is the intent of the Legislature to enact
2 short-term increases in reimbursement rates for community services
3 providers while undertaking a stakeholder process with specific
4 deadlines to develop and implement long-term reforms to
5 accomplish these goals. It is also the intent of the Legislature to
6 establish requirements for greater regional center transparency
7 with respect to rates paid to vendors and the amount and type of
8 services provided to consumers across the spectrum of regional
9 center services. It is further the intent of the Legislature that the
10 provisions added by this act only remain in place until a revised,
11 comprehensive rate system that provides adequate and transparent
12 funding for community-based services, including supported
13 employment, is implemented.

14 SEC. 2. Section 4519.8 is added to the Welfare and Institutions
15 Code, immediately following Section 4519.7, to read:

16 4519.8. The department shall submit a plan to the Legislature
17 to ensure the sustainability, quality, and transparency of
18 community-based services for individuals with developmental
19 disabilities. The department shall regularly consult with
20 stakeholders in developing the plan. The department shall submit
21 the plan to the Legislature by August 1, 2016. The plan shall
22 include, but not be limited to, all of the following:

23 (a) For each community services cost savings measure adopted
24 through the budget process from 2008 through 2014, inclusive,
25 that is still in effect as of July 1, 2015, an estimate of the savings
26 generated and the number of program enrollees affected by that
27 budget savings action. The plan shall recommend whether or not
28 to continue implementing each savings measure.

29 (b) An assessment of the effectiveness of the methods used to
30 pay each category of community service provider. This assessment
31 shall include the following consideration for each type of service
32 provider:

33 (1) Whether the current method of ratesetting for a service
34 category is ensuring an adequate supply of providers in that
35 category.

36 (2) For service categories whose rates are not currently
37 negotiated rates, the likely fiscal effects of shifting the rate
38 methodology to negotiated rates for that service provider category.

39 (3) Options for basing a portion of the reimbursement for a
40 provider category on consumer satisfaction, as measured by

1 surveys, consumer-generated ratings, or other recognized methods
2 for measuring consumer satisfaction in a statistically representative
3 manner.

4 (c) An evaluation of the appropriateness of the number and type
5 of billing codes for regional center services, including, but not
6 limited to, recommendations for making billing codes more
7 reflective of the level and type of services provided.

8 (d) Recommendations for a comprehensive purchase-of-services
9 rate structure that would ensure a sustainable, high-quality, and
10 transparent community services system.

11 (e) For regional center operations, an estimate of the median
12 cost per consumer to staff each regional center at appropriate levels.

13 (f) An assessment of the adequacy of the number and locations
14 of regional centers for providing timely service to consumers. This
15 assessment shall consider all of the following:

16 (1) The waiting time for consumers to obtain appointments with
17 regional center personnel.

18 (2) The distance consumers must travel for in-person meetings
19 with regional center personnel.

20 (3) The type and frequency of interactions between consumers
21 and regional center personnel that can be accommodated remotely
22 through electronic means, including electronic mail, video
23 conferencing, or telehealth.

24 (4) Whether additional regional centers or regional center
25 locations are necessary to address any identified deficiencies in
26 access to regional center personnel, or whether technology-enabled
27 means of access or other solutions are warranted.

28 (g) Development and evaluation of options for basing a portion
29 of the funding for regional centers on consumer satisfaction, as
30 measured by surveys, consumer-generated ratings, or other
31 recognized methods for measuring consumer satisfaction in a
32 statistically representative manner.

33 (h) Recommendations for a comprehensive approach to funding
34 regional center operations in a sustainable and transparent manner
35 that provides incentives for regional centers to deliver high-quality
36 services to their consumers.

37 SEC. 3. Section 4629.7 of the Welfare and Institutions Code
38 is amended to read:

39 4629.7. (a) Notwithstanding any other ~~provision of~~ law, all
40 regional center contracts or agreements with service providers in

1 which rates are determined through negotiations between the
2 regional center and the service provider shall expressly require
3 that not more than ~~15 percent of regional center funds~~ *the amount*
4 *of funds specified in paragraphs (1) to (3), inclusive*, be spent on
5 administrative costs. ~~For~~

6 (1) *For service providers whose regional center agreements*
7 *total two million dollars (\$2,000,000) or more annually, 15 percent*
8 *of regional center funds.*

9 (2) *For service providers whose regional center agreements*
10 *total less than two million dollars (\$2,000,000), but more than one*
11 *million dollars (\$1,000,000), annually, 17.5 percent of regional*
12 *center funds.*

13 (3) *For service providers whose regional center agreements*
14 *total one million dollars (\$1,000,000) or less, annually, 20 percent*
15 *of regional center funds.*

16 (b) For purposes of this subdivision, direct service expenditures
17 are those costs immediately associated with the services to
18 consumers being offered by the provider. Funds spent on direct
19 services shall not include any administrative costs. Administrative
20 costs include, but are not limited to, any of the following:

21 (1) Salaries, wages, and employee benefits for managerial
22 personnel whose primary purpose is the administrative management
23 of the entity, including, but not limited to, directors and chief
24 executive officers.

25 (2) Salaries, wages, and benefits of employees who perform
26 administrative functions, including, but not limited to, payroll
27 management, personnel functions, accounting, budgeting, and
28 facility management.

29 (3) Facility and occupancy costs, directly associated with
30 administrative functions.

31 (4) Maintenance and repair.

32 (5) Data processing and computer support services.

33 (6) Contract and procurement activities, except those provided
34 by a direct service employee.

35 (7) Training directly associated with administrative functions.

36 (8) Travel directly associated with administrative functions.

37 (9) Licenses directly associated with administrative functions.

38 (10) Taxes.

39 (11) Interest.

40 (12) Property insurance.

1 (13) Personal liability insurance directly associated with
2 administrative functions.

3 (14) Depreciation.

4 (15) General expenses, including, but not limited to,
5 communication costs and supplies directly associated with
6 administrative functions.

7 ~~(b)~~

8 (c) Notwithstanding any other ~~provision of~~ law, all contracts
9 between the department and the regional centers shall require that
10 not more than 15 percent of all funds appropriated through the
11 regional center's operations budget shall be spent on administrative
12 costs. For purposes of this subdivision, "direct services" includes,
13 but is not limited to, service coordination, assessment and
14 diagnosis, monitoring of consumer services, quality assurance,
15 and clinical services. Funds spent on direct services shall not
16 include any administrative costs. For purposes of this subdivision,
17 administrative costs include, but are not limited to, any of the
18 following:

19 (1) Salaries, wages, and employee benefits for managerial
20 personnel whose primary purpose is the administrative management
21 of the regional center, including, but not limited to, directors and
22 chief executive officers.

23 (2) Salaries, wages, and benefits of employees who perform
24 administrative functions, including, but not limited to, payroll
25 management, personnel functions, accounting, budgeting, auditing,
26 and facility management.

27 (3) Facility and occupancy costs, directly associated with
28 administrative functions.

29 (4) Maintenance and repair.

30 (5) Data processing and computer support services.

31 (6) Contract and procurement activities, except those performed
32 by direct service employees.

33 (7) Training directly associated with administrative functions.

34 (8) Travel directly associated with administrative functions.

35 (9) Licenses directly associated with administrative functions.

36 (10) Taxes.

37 (11) Interest.

38 (12) Property insurance.

39 (13) Personal liability insurance directly associated with
40 administrative functions.

1 (14) Depreciation.

2 (15) General expenses, including, but not limited to,
3 communication costs and supplies directly associated with
4 administrative functions.

5 (e)

6 (d) Consistent with subdivision (a), service providers and
7 contractors, upon request, shall provide regional centers with access
8 to any books, documents, papers, computerized data, source
9 documents, consumer records, or other records pertaining to the
10 service providers' and contractors' negotiated rates.

11 SEC. 4. Section 4681.1 of the Welfare and Institutions Code
12 is amended to read:

13 4681.1. (a) The department shall adopt regulations that specify
14 rates for community care facilities serving persons with
15 developmental disabilities. The implementation of the regulations
16 shall be contingent upon an appropriation in the annual Budget
17 Act for this purpose. These rates shall be calculated on the basis
18 of a cost model designed by the department that ensures that
19 aggregate facility payments support the provision of services to
20 each person in accordance with his or her individual program plan
21 and applicable program requirements. The cost model shall reflect
22 cost elements that shall include, but are not limited to, all of the
23 following:

24 (1) "Basic living needs" include utilities, furnishings, food,
25 supplies, incidental transportation, housekeeping, personal care
26 items, and other items necessary to ensure a quality environment
27 for persons with developmental disabilities. The amount identified
28 for the basic living needs element of the rate shall be calculated
29 as the average projected cost of these items in an economically
30 and efficiently operated community care facility.

31 (2) "Direct care" includes salaries, wages, benefits, and other
32 expenses necessary to supervise or support the person's functioning
33 in the areas of self-care and daily living skills, physical
34 coordination mobility, and behavioral self-control, choice making,
35 and integration. The amount identified for direct care shall be
36 calculated as the average projected cost of providing the level of
37 service required to meet each person's functional needs in an
38 economically and efficiently operated community care facility.
39 The direct care portion of the rate shall reflect specific service

1 levels defined by the department on the basis of relative resident
2 need and the individual program plan.

3 (3) “Special services” include specialized training, treatment,
4 supervision, or other services that a person’s individual program
5 plan requires to be provided by the residential facility in addition
6 to the direct care provided under paragraph (2). The amount
7 identified for special services shall be calculated for each individual
8 based on the additional services specified in the person’s individual
9 program plan and the prevailing rates paid for similar services in
10 the area. The special services portion of the rate shall reflect a
11 negotiated agreement between the facility and the regional center
12 in accordance with Section 4648.

13 (4) “Indirect costs” include managerial personnel, facility
14 operation, maintenance and repair, other nondirect care, employee
15 benefits, contracts, training, travel, licenses, taxes, interest,
16 insurance, depreciation, and general administrative expenses. The
17 amount identified for indirect costs shall be calculated as the
18 average projected cost for these expenses in an economically and
19 efficiently operated community care facility.

20 (5) “Property costs” include mortgages, leases, rent, taxes,
21 capital or leasehold improvements, depreciation, and other
22 expenses related to the physical structure. The amount identified
23 for property costs shall be based on the fair rental value of a model
24 facility that is adequately designed, constructed, and maintained
25 to meet the needs of persons with developmental disabilities. The
26 amount identified for property costs shall be calculated as the
27 average projected fair rental value of an economically and
28 efficiently operated community care facility.

29 (b) The cost model shall take into account factors that include,
30 but are not limited to, all of the following:

31 (1) Facility size, as defined by the department on the basis of
32 the number of facility beds licensed by the State Department of
33 Social Services and vendorized by the regional center.

34 (2) Specific geographic areas, as defined by the department on
35 the basis of cost of living and other pertinent economic indicators.

36 (3) Common levels of direct care, as defined by the department
37 on the basis of services specific to an identifiable group of persons
38 as determined through the individual program plan.

1 (4) Positive outcomes, as defined by the department on the basis
2 of increased integration, independence, and productivity at the
3 aggregate facility and individual consumer level.

4 (5) Owner-operated and staff-operated reimbursement, which
5 shall not differ for facilities that are required to comply with the
6 same program requirements.

7 (c) The rates established for individual community care facilities
8 serving persons with developmental disabilities shall reflect all of
9 the model cost elements and rate development factors described
10 in this section. The cost model design shall include a process for
11 updating the cost model elements that address variables, including,
12 but not limited to, all of the following:

- 13 (1) Economic trends in California.
 - 14 (2) New state or federal program requirements.
 - 15 (3) Changes in the state or federal minimum wage.
 - 16 (4) Increases in fees, taxes, or other business costs.
 - 17 (5) Increases in federal supplemental security income/state
18 supplementary program for the aged, blind, and disabled payments.
- 19 (d) Rates established for persons with developmental disabilities
20 who are also dually diagnosed with a mental health disorder may
21 be fixed at a higher rate. The department shall work with the State
22 Department of Health Care Services to establish criteria upon
23 which higher rates may be fixed pursuant to this subdivision. The
24 higher rate for persons with developmental disabilities who are
25 also dually diagnosed with a mental health disorder may be paid
26 when requested by the director of the regional center and approved
27 by the Director of Developmental Services.

28 (e) By January 1, 2001, the department shall prepare proposed
29 regulations to implement the changes outlined in this section. The
30 department may use a private firm to assist in the development of
31 these changes and shall confer with consumers, providers, and
32 other interested parties concerning the proposed regulations. By
33 May 15, 2001, and each year thereafter, the department shall
34 provide the Legislature with annual community care facility rates,
35 including any draft amendments to the regulations as required. By
36 July 1, 2001, and each year thereafter, contingent upon an
37 appropriation in the annual Budget Act for this purpose, the
38 department shall adopt emergency regulations that establish the
39 annual rates for community care facilities serving persons with
40 developmental disabilities for each fiscal year.

1 (f) During the first year of operation under the revised rate
2 model, individual facilities shall be held harmless for any reduction
3 in aggregate facility payments caused solely by the change in
4 reimbursement methodology.

5 (g) (1) *The department shall ensure that rates established for*
6 *community care facilities serving persons with developmental*
7 *disabilities permit the viability of those facilities, including, but*
8 *not limited to, four-bed facilities, by establishing different rates*
9 *for each facility size, as determined by the number of beds*
10 *available, that reflect reasonable differences in the cost structure*
11 *of facilities with differing numbers of beds.*

12 (2) *The department shall adopt emergency regulations by July*
13 *1, 2016, to implement this subdivision. The adoption, amendment,*
14 *repeal, or readoption of a regulation authorized by this paragraph*
15 *is deemed to be necessary for the immediate preservation of the*
16 *public peace, health and safety, or general welfare, for purposes*
17 *of Sections 11346.1 and 11349.6 of the Government Code, and*
18 *the department is hereby exempted from the requirement that it*
19 *describe specific facts showing the need for immediate action.*

20 SEC. 5. Section 4681.2 is added to the Welfare and Institutions
21 Code, to read:

22 4681.2. (a) Notwithstanding any other law, commencing July
23 1, 2015, the department shall increase the rates set for community
24 care facilities serving persons with developmental disabilities by
25 5 percent above the levels that otherwise would have been in effect
26 as of July 1, 2015, and, commencing July 1, 2016, the department
27 shall increase those rates by 5 percent above the level in effect on
28 July 1, 2015.

29 (b) The funding increases authorized in this section shall only
30 be made if the percentage of federal matching funds available does
31 not change.

32 SEC. 6. Section 4681.6 of the Welfare and Institutions Code
33 is amended to read:

34 4681.6. (a) ~~Notwithstanding any other law or regulation, law,~~
35 commencing July 1, 2008:

36 (1) A regional center shall not pay an existing residential service
37 provider, for services where rates are determined through a
38 negotiation between the regional center and the provider, a rate
39 higher than the rate in effect on June 30, 2008, unless the increase
40 is required by a contract between the regional center and the vendor

1 that is in effect on June 30, 2008, or the regional center
2 demonstrates that the approval is necessary to protect the
3 consumer's health or safety and the department has granted prior
4 written authorization.

5 (2) A regional center shall not negotiate a rate with a new
6 residential service provider, for services where rates are determined
7 through a negotiation between the regional center and the provider,
8 that is higher than the regional center's median rate for the same
9 service code and unit of service, or the statewide median rate for
10 the same service code and unit of service, whichever is lower. The
11 unit of service designation shall conform with an existing regional
12 center designation or, if none exists, a designation used to calculate
13 the statewide median rate for the same service. The regional center
14 shall annually certify to the department its median rate for each
15 negotiated rate service code, by designated unit of service. This
16 certification shall be subject to verification through the
17 department's biennial fiscal audit of the regional center.

18 (b) Notwithstanding subdivision (a), commencing July 1, 2014,
19 regional centers may negotiate a rate adjustment with residential
20 service providers regarding rates that are otherwise restricted
21 pursuant to subdivision (a), if the adjustment is necessary in order
22 to pay employees no less than the minimum wage as established
23 by Section 1182.12 of the Labor Code, as amended by Chapter
24 351 of the Statutes of 2013, and only for the purpose of adjusting
25 payroll costs associated with the minimum wage increase. The
26 rate adjustment shall be specific to the unit of service designation
27 that is affected by the increased minimum wage, shall be specific
28 to payroll costs associated with any increase necessary to adjust
29 employee pay only to the extent necessary to bring pay into
30 compliance with the increased state minimum wage, and shall not
31 be used as a general wage enhancement for employees paid above
32 the minimum wage. Regional centers shall maintain documentation
33 on the process to determine, and the rationale for granting, any
34 rate adjustment associated with the minimum wage increase.

35 (c) (1) *Notwithstanding subdivision (a), commencing July 1,*
36 *2015, regional centers shall increase the rates paid to residential*
37 *service providers, for services where rates are determined through*
38 *a negotiation between the regional center and the provider, by 5*
39 *percent above the levels that otherwise would have been in effect*
40 *on July 1, 2015, and, commencing July 1, 2016, the regional*

1 centers shall increase those rates by 5 percent above the level in
2 effect on July 1, 2015.

3 (2) The funding increases authorized in this subdivision shall
4 only be made if the percentage of federal matching funds available
5 does not change.

6 ~~(e)~~

7 (d) For purposes of this section, “residential service provider”
8 includes Adult Residential Facilities for Persons with Special
9 Health Care Needs, as described in Section 4684.50.

10 ~~(d)~~

11 (e) This section shall not apply to those services for which rates
12 are determined by the State Department of Health Care Services,
13 or the State Department of Developmental Services, or are usual
14 and customary.

15 SEC. 7. Section 4689.8 of the Welfare and Institutions Code
16 is amended to read:

17 4689.8. (a) Notwithstanding any other ~~provision of law or~~
18 ~~regulation, law~~, commencing July 1, 2008:

19 ~~(a) No~~

20 (1) A regional center ~~may~~ shall not pay an existing supported
21 living service provider, for services where rates are determined
22 through a negotiation between the regional center and the provider,
23 a rate higher than the rate in effect on June 30, 2008, unless the
24 increase is required by a contract between the regional center and
25 the vendor that is in effect on June 30, 2008, or the regional center
26 demonstrates that the approval is necessary to protect the
27 consumer’s health or safety and the department has granted prior
28 written authorization.

29 ~~(b) No~~

30 (2) A regional center ~~may~~ shall not negotiate a rate with a new
31 supported living service provider, for services where rates are
32 determined through a negotiation between the regional center and
33 the provider, that is higher than the regional center’s median rate
34 for the same service code and unit of service, or the statewide
35 median rate for the same service code and unit of service,
36 whichever is lower. The unit of service designation shall conform
37 with an existing regional center designation or, if none exists, a
38 designation used to calculate the statewide median rate for the
39 same service. The regional center shall annually certify to the State
40 Department of Developmental Services its median rate for each

1 negotiated rate service code, by designated unit of service. This
2 certification shall be subject to verification through the
3 department's biennial fiscal audit of the regional center.

4 *(b) (1) Notwithstanding subdivision (a), commencing July 1,*
5 *2015, regional centers shall increase the rates paid to supported*
6 *living service providers, for services where rates are determined*
7 *through a negotiation between the regional center and the provider,*
8 *by 5 percent above the levels that otherwise would have been in*
9 *effect on July 1, 2015, and, commencing July 1, 2016, the regional*
10 *centers shall increase those rates by 5 percent above the level in*
11 *effect on July 1, 2015.*

12 *(2) The funding increases authorized in this subdivision shall*
13 *only be made if the percentage of federal matching funds available*
14 *does not change.*

15 SEC. 8. Section 4690.7 is added to the Welfare and Institutions
16 Code, to read:

17 4690.7. (a) Notwithstanding any other law, commencing July
18 1, 2015, the department shall increase the rates set for
19 nonresidential service providers by 5 percent above the levels that
20 otherwise would have been in effect on July 1, 2015, and,
21 commencing July 1, 2016, the department shall increase those
22 rates by 5 percent above the level in effect on July 1, 2015.

23 (b) The funding increases authorized in this section shall only
24 be made if the percentage of federal matching funds available does
25 not change.

26 SEC. 9. Section 4691.9 of the Welfare and Institutions Code
27 is amended to read:

28 4691.9. (a) ~~Notwithstanding any other law or regulation, law,~~
29 commencing July 1, 2008:

30 (1) A regional center shall not pay an existing service provider,
31 for services where rates are determined through a negotiation
32 between the regional center and the provider, a rate higher than
33 the rate in effect on June 30, 2008, unless the increase is required
34 by a contract between the regional center and the vendor that is in
35 effect on June 30, 2008, or the regional center demonstrates that
36 the approval is necessary to protect the consumer's health or safety
37 and the department has granted prior written authorization.

38 (2) A regional center shall not negotiate a rate with a new service
39 provider, for services where rates are determined through a
40 negotiation between the regional center and the provider, that is

1 higher than the regional center’s median rate for the same service
2 code and unit of service, or the statewide median rate for the same
3 service code and unit of service, whichever is lower. The unit of
4 service designation shall conform with an existing regional center
5 designation or, if none exists, a designation used to calculate the
6 statewide median rate for the same service. The regional center
7 shall annually certify to the State Department of Developmental
8 Services its median rate for each negotiated rate service code, by
9 designated unit of service. This certification shall be subject to
10 verification through the department’s biennial fiscal audit of the
11 regional center.

12 (b) Notwithstanding subdivision (a), commencing July 1, 2014,
13 regional centers may negotiate a rate adjustment with providers
14 regarding rates if the adjustment is necessary in order to pay
15 employees no less than the minimum wage as established by
16 Section 1182.12 of the Labor Code, as amended by Chapter 351
17 of the Statutes of 2013, and only for the purpose of adjusting
18 payroll costs associated with the minimum wage increase. The
19 rate adjustment shall be specific to the unit of service designation
20 that is affected by the increased minimum wage, shall be specific
21 to payroll costs associated with any increase necessary to adjust
22 employee pay only to the extent necessary to bring pay into
23 compliance with the increased state minimum wage, and shall not
24 be used as a general wage enhancement for employees paid above
25 the increased minimum wage. Regional centers shall maintain
26 documentation on the process to determine, and the rationale for
27 granting, any rate adjustment associated with the minimum wage
28 increase.

29 (c) Notwithstanding any other ~~law or regulation~~, *law*,
30 commencing January 1, 2015, rates for personal assistance and
31 supported living services in effect on December 31, 2014, shall
32 be increased by 5.82 percent, subject to funds specifically
33 appropriated for this increase for costs due to changes in federal
34 regulations implementing the federal Fair Labor Standards Act of
35 1938 (29 U.S.C. Sec. 201 et seq.). The increase shall be applied
36 as a percentage, and the percentage shall be the same for all
37 applicable providers. As used in this subdivision, both of the
38 following definitions shall apply:

39 (1) “Personal assistance” is limited only to those services
40 provided by vendors classified by the regional center as personal

1 assistance providers, pursuant to the miscellaneous services
 2 provisions contained in Title 17 of the California Code of
 3 Regulations.

4 (2) “Supported living services” are limited only to those services
 5 defined as supported living services in Title 17 of the California
 6 Code of Regulations.

7 (d) (1) *Notwithstanding subdivision (a), commencing July 1,*
 8 *2015, regional centers shall increase the rates paid to service*
 9 *providers, for services where rates are determined through a*
 10 *negotiation between the regional center and the provider, by 5*
 11 *percent above the levels that otherwise would have been in effect*
 12 *on July 1, 2015, and, commencing July 1, 2016, the regional*
 13 *centers shall increase those rates by 5 percent above the level in*
 14 *effect on July 1, 2015.*

15 (2) *The funding increases authorized in this subdivision shall*
 16 *only be made if the percentage of federal matching funds available*
 17 *does not change.*

18 ~~(e)~~

19 (e) This section shall not apply to those services for which rates
 20 are determined by the State Department of Health Care Services,
 21 or the State Department of Developmental Services, or are usual
 22 and customary.

23 SEC. 10. Section 4793 is added to the Welfare and Institutions
 24 Code, to read:

25 4793. (a) The department shall increase the funding provided
 26 to a regional center for the regional center’s operating budget as
 27 follows:

28 (1) Beginning January 1, 2016, increase the amount paid under
 29 the core staffing formula by 5 percent.

30 (2) Beginning July 1, 2016, increase the amount paid under the
 31 core staffing formula by 10 percent.

32 (b) The funding increases authorized in this section shall only
 33 be made if the percentage of federal matching funds available does
 34 not change.

35 SEC. 11. Section 4794 is added to the Welfare and Institutions
 36 Code, to read:

37 4794. The department shall increase the funding provided to
 38 a regional center to enable the regional center and regional center’s
 39 purchase-of-service vendors to fund all of the following costs
 40 associated with minimum wage requirements:

1 (a) The costs necessary to comply with a statewide minimum
2 wage requirement.

3 (b) The costs necessary to comply with minimum wage
4 requirements enacted by local governments that exceed the
5 statewide minimum wage.

6 (c) The costs necessary to increase compensation for exempt,
7 salaried employees to comply with wage orders issued by the
8 Industrial Welfare Commission or any other state regulatory
9 agency.

10 (d) Any other wage adjustments that vendors are required to
11 make in response to minimum wage increases mandated by state
12 or federal statutes, regulations, or other authorities.

13 SEC. 12. Section 4860 of the Welfare and Institutions Code is
14 amended to read:

15 4860. (a) (1) ~~The~~ *Except as provided in subdivision (f), the*
16 *hourly rate for supported employment services provided to*
17 *consumers receiving individualized services shall be thirty dollars*
18 *and eighty-two cents (\$30.82);* *thirty-four dollars and twenty-four*
19 *cents (\$34.24).*

20 (2) Job coach hours spent in travel to consumer worksites may
21 be reimbursable for individualized services only when the job
22 coach travels from the vendor's headquarters to the consumer's
23 worksite or from one consumer's worksite to another, and only
24 when the travel is one way.

25 (b) ~~The~~ *Except as provided in subdivision (f), the hourly rate*
26 *for group services shall be thirty dollars and eighty-two cents*
27 *(\$30.82);* *thirty-four dollars and twenty-four cents (\$34.24)*
28 *regardless of the number of consumers served in the group.*
29 *Consumers in a group shall be scheduled to start and end work at*
30 *the same time, unless an exception that takes into consideration*
31 *the consumer's compensated work schedule is approved in advance*
32 *by the regional center. The department, in consultation with*
33 *stakeholders, shall adopt regulations to define the appropriate*
34 *grounds for granting these exceptions. When the number of*
35 *consumers in a supported employment placement group drops to*
36 *fewer than the minimum required in subdivision (r) of Section*
37 *4851, the regional center may terminate funding for the group*
38 *services in that group, unless, within 90 days, the program provider*
39 *adds one or more regional centers, or Department of*

1 Rehabilitation-funded supported employment consumers to the
 2 group.

3 (c) Job coaching hours for group services shall be allocated on
 4 a prorated basis between a regional center and the Department of
 5 Rehabilitation when regional center and Department of
 6 Rehabilitation consumers are served in the same group.

7 (d) When Section 4855 applies, fees shall be authorized for the
 8 following:

9 (1) ~~A three-hundred-sixty-dollar (\$360)~~ *four-hundred-dollar*
 10 *(\$400)* fee shall be paid to the program provider upon intake of a
 11 consumer into a supported employment program. No fee shall be
 12 paid if that consumer completed a supported employment intake
 13 process with that same supported employment program within the
 14 previous 12 months.

15 (2) ~~A seven-hundred-twenty-dollar (\$720)~~ *An*
 16 *eight-hundred-dollar (\$800)* fee shall be paid upon placement of
 17 a consumer in an integrated job, except that no fee shall be paid
 18 if that consumer is placed with another consumer or consumers
 19 assigned to the same job coach during the same hours of
 20 employment.

21 (3) ~~A seven-hundred-twenty-dollar (\$720)~~ *An*
 22 *eight-hundred-dollar (\$800)* fee shall be paid after a 90-day
 23 retention of a consumer in a job, except that no fee shall be paid
 24 if that consumer has been placed with another consumer or
 25 consumers, assigned to the same job coach during the same hours
 26 of employment.

27 (e) Notwithstanding paragraph (4) of subdivision (a) of Section
 28 4648, the regional center shall pay the supported employment
 29 program rates established by this section.

30 (f) (1) *Commencing July 1, 2016, the rates established by*
 31 *subdivisions (a) and (b) shall be thirty-seven dollars and sixty-six*
 32 *cents (\$37.66).*

33 (2) *Commencing July 1, 2017, the rates established by*
 34 *subdivisions (a) and (b) shall be forty-one dollars and forty-three*
 35 *cents (\$41.43).*

36 SEC. 13. The Legislature declares that the changes made by
 37 this act are not intended to result in the substantial impairment of
 38 any contract. To the extent any contract would be substantially
 39 impaired as a result of the application of any change made by this

1 act, it is the intent of the Legislature that the change apply only to
2 contracts renewed or entered into on or after January 1, 2016.

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