

Assembly Bill No. 2160

Passed the Assembly August 31, 2000

Chief Clerk of the Assembly

Passed the Senate August 30, 2000

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2000, at _____ o'clock ____M.

Private Secretary of the Governor



CHAPTER _____

An act to amend Sections 8265, 8265.5, and 8470 of the Education Code, relating to child care and development.

LEGISLATIVE COUNSEL'S DIGEST

AB 2160, Cunneen. Child care and development: reimbursement rates.

Existing law, known as the Child Care and Development Services Act, provides for the operation of child care and development programs and establishes reimbursement rates for child care programs, including extended day care services. Existing law sets the standard reimbursement rate for the provision of child care services and extended day care services and increases that rate by a cost-of-living adjustment.

This bill would authorize the Superintendent of Public Instruction to reimburse providers of child care and extended day care services at a rate in excess of the standard reimbursement rate, but not to exceed the regional market rate, as defined. The bill would provide that these increases may be funded only with funds appropriated for that purpose. If the total cost of rate increases exceeds the funds available, rate increases would be granted first to applicants whose contracts have reimbursement rates that are the lowest percentage of the market rates in the contractors' respective regions.

The bill would require an agency that is granted a rate adjustment to raise salaries or increase benefits for teachers and other staff to file a report with the department specifying certain information regarding salary rates and benefits. The department would be required to verify based on the report that the rate adjustment was used to raise salaries or increase benefits and to rescind any portion of the rate adjustment that was not used for this purpose.

Existing law also provides for adjustment factors to reflect the additional expense of serving children who meet certain criteria.



The bill would revise the criteria establishing provider eligibility for the application of adjustment factors.

The bill would provide for the reimbursement of providers of child care programs at a rate in excess of the standard reimbursement rate and would implement those provisions to the extent funds are appropriated for that purpose in the annual Budget Act or other measure. The bill would require that any appropriation for this purpose be included in the amounts by the state in the 2001–02 fiscal year for the purpose of meeting the state’s minimum funding obligation to school districts and community college districts under Section 8 of Article XVI of the California Constitution for that fiscal year.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Early care and preschool teachers are leaving state funded child development programs in large numbers due to the inadequate salaries and benefits that those programs can afford to pay. Prospective early care and preschool teachers are entering other fields because of the inadequate salaries and benefits.

(b) Educational preschool child development programs are critical to the state’s educational goals. These programs prepare low-income children for success in school through early literacy, reading readiness, English language learning, vocabulary expansion, mathematics readiness, and the teaching of basic skills needed for academic success. Education and enrichment schoolage programs that provide extended day care services are critical as a support to school learning and have enormous value in reducing juvenile delinquency and vandalism.

(c) Obtaining the benefits of preschool child development programs and schoolage extended day care programs is dependent upon recruiting and retaining competent, well-trained, and skilled teachers.



(d) California is failing to obtain the benefits it seeks from its preschool child development and schoolage extended day care programs due to the shortage of competent, well-trained, and skilled teachers. The shortage has become a crisis for state funded child development programs, requiring the Legislature to address the problem of low salaries.

(e) State funded child development providers are limiting expansion of their programs due to the teacher shortage at the very time that the state needs these programs to expand to meet its education, welfare reform, and economic goals.

(f) In most counties, state contracted child development programs are paid less under their State Department of Education contracts than the state pays to purchase center-based care using vouchers, whose maximum value is determined by the Regional Market Rate Survey.

(g) Contracted child care and development programs in these counties should be allowed to apply for rate increases up to the regional market rate for their county, on a case-by-case basis, dependent upon adequate documentation of the need for a rate increase in order to meet their expenses.

SEC. 2. Section 8265 of the Education Code is amended to read:

8265. (a) (1) The Superintendent of Public Instruction shall implement a plan that establishes reasonable standards and assigned reimbursement rates, which vary with the length of the program year and the hours of service.

(2) Parent fees shall be used to pay reasonable and necessary costs for providing additional services.

(3) When establishing standards and assigned reimbursement rates, the Superintendent of Public Instruction shall confer with applicant agencies.

(4) The reimbursement system, including standards and rates, shall be submitted to the Joint Legislative Budget Committee.



(5) The Superintendent of Public Instruction may establish any regulations he or she deems advisable concerning conditions of service and hours of enrollment for children in the programs.

(b) Except as provided by subdivision (c), the standard reimbursement rate shall be three thousand five hundred twenty-three dollars (\$3,523) per unit of average daily enrollment for a 250-day year, increased by the cost-of-living adjustment granted by the Legislature beginning July 1, 1980.

(c) (1) Notwithstanding subdivision (b), an agency that demonstrates a need to receive payment at the same child care rates as those prevailing in the local community may apply for a reimbursement rate in excess of the standard reimbursement rate, but not to exceed the regional market rate. For the purposes of this section, "regional market rate" means a cost of no more than 1.5 standard deviations above the mean cost of full-time center-based care for children two to five years of age, using the weekly rate divided by the number 5.

(2) A reimbursement rate increase granted pursuant to this subdivision may be funded only with funds appropriated for this purpose. In any year in which funds are available for rate increases and the total cost of rate increases that meet the requirements described in this subdivision would exceed the funds available, rate increases shall be granted first to applicants whose contracts have reimbursement rates that are the lowest percentage of the market rates in the contractors' respective regions.

(3) A reimbursement rate increase granted pursuant to this subdivision may not reduce the number of child days or hours that are required to earn a contract for the provision of child care and development services.

(4) The statewide total of reimbursement rate increases granted pursuant to this subdivision may not equal an amount in excess of three million eight hundred thousand dollars (\$3,800,000) annually.



(5) No reimbursement rate increase that is applied for pursuant to paragraph (1) shall be effective prior to July 1, 2001.

(d) (1) The plan shall provide for adjusting reimbursement on a case-by-case basis, in order to maintain service levels for agencies currently at a rate less than the standard reimbursement rate. Assigned reimbursement rates shall be increased only on the basis of one or more of the following:

(A) Loss of program resources from other sources.

(B) Need of an agency to pay the same child care rates as those prevailing in the local community.

(C) Increased costs directly attributable to new or different regulations.

(D) Documented increased costs necessary to maintain the prior year's level of service and ensure the continuation of threatened programs.

(2) Child care agencies funded at the lowest rates shall be given first priority for increases.

(e) The plan shall provide for expansion of child development programs at no more than the standard reimbursement rate for that fiscal year, except that expansion may be granted for rates established pursuant to subdivision (c).

(f) An agency that is granted a rate adjustment for the purpose of raising salaries or increasing benefits for teachers and other staff shall file a report with the department within six months of being granted the rate adjustment. The report shall specify the specific salary rates and benefits that were raised, the salary rates and benefits before and after the raise, the number of staff covered by each raise, and a line-item budget showing the annual cost of the salary and benefit increases. The department shall compare the rate adjustment request and the report to verify that any rate adjustment granted for the purpose of raising salaries or increasing benefits was used for that purpose and shall rescind any portion of that rate adjustment that was not used for this purpose.

SEC. 3. Section 8265.5 of the Education Code is amended to read:



8265.5. In order to reflect the additional expense of serving children who meet any of the criteria outlined in subdivisions (a) to (g), inclusive, the provider agency's reported child days of enrollment for these children shall be multiplied by the adjustment factors listed below.

The adjustment factors shall apply to those programs for which assigned reimbursement rates are at or below the greater of the standard reimbursement rate or the regional market rate for that county, as defined in subdivision (c) of Section 8265. In addition, the adjustment factors shall apply to those programs for which assigned reimbursement rates are above the standard reimbursement rate, but the reimbursement rate, as adjusted, shall not exceed the greater of the adjusted standard reimbursement rate or the adjusted regional market rate.

(a) For infants who are 0 to 18 months of age and are served in a child day care center, the adjustment factor shall be 1.7.

(b) For toddlers who are 18 to 36 months of age and are served in a child day care center, the adjustment factor shall be 1.4.

(c) For infants and toddlers who are 0 to 36 months of age and are served in a family child care home, the adjustment factor shall be 1.4.

(d) For children with exceptional needs who are 0 to 21 years of age, the adjustment factor shall be 1.2.

(e) For severely handicapped children who are 0 to 21 years of age, the adjustment factor shall be 1.5.

(f) For a child at risk of neglect, abuse, or exploitation who are 0 to 14 years of age, the adjustment factor shall be 1.1.

(g) For limited-English-speaking and non-English-speaking children who are 2 years of age through kindergarten age, the adjustment factor shall be 1.1.

Use of these adjustment factors shall not increase the provider agency's total annual allocation.

Days of enrollment for children having more than one of the criteria outlined in subdivisions (a) to (g),



inclusive, shall not be reported under more than one of the above categories.

Reimbursement resulting from the use of the above adjustment factors shall be used for special and appropriate services for each child.

SEC. 4. Section 8470 of the Education Code is amended to read:

8470. (a) (1) The Superintendent of Public Instruction shall implement a plan that establishes reasonable and cost-effective standards and assigned reimbursement rates. The reimbursement rates established under this section shall be based upon either child days of enrollment or child hours of enrollment, at the option of the agency to be reimbursed.

(2) Except as provided in subdivision (b), the maximum reimbursement rate for a full year of extended day care service shall not exceed an average of two thousand one hundred dollars (\$2,100) per child per year in the 1985–86 fiscal year, as adjusted annually thereafter by the cost-of-living adjustment established by the Legislature for child care services.

(b) (1) Notwithstanding subdivision (a), an agency that can demonstrate a need to receive payment at the same child care rates as those prevailing in the local community may apply for a reimbursement rate in excess of the rate set forth in subdivision (a), but not to exceed the regional market rate. For the purposes of this section, “regional market rate” means a cost of no more than 1.5 standard deviations above the mean cost of full-time, center-based care for children six years of age and older, using the weekly rate divided by either the number 5, if the contract is based on daily reimbursement, or the number 40, if the contract is based on hourly reimbursement.

(2) A reimbursement rate increase granted pursuant to this subdivision may be funded only with funds appropriated for this purpose. In any year in which funds are available for rate increases and the total cost of rate increases that meet the requirements described in this subdivision would exceed the funds available, rate



increases shall be granted first to applicants whose contracts have reimbursement rates that are the lowest percentage of the market rates in the contractors' respective regions.

(3) A reimbursement rate increase granted pursuant to this subdivision may not reduce the number of child days or hours that are required to earn a contract for the provision of child care and development services.

(4) The statewide total of reimbursement rate increases granted pursuant to subdivision (b) may not equal an amount in excess of one million dollars (\$1,000,000) annually.

(5) No reimbursement rate increase that is applied for pursuant to paragraph (1) shall be effective prior to July 1, 2001.

(c) The superintendent shall review annually the implementation of the reimbursement rates, based on child days or child hours of enrollment, established pursuant to subdivision (a), to determine whether the rates are reasonable, cost-effective, and consistent with the goal of increasing the availability of affordable child care services for nonsubsidized children.

(d) An agency that is granted a rate adjustment for the purpose of raising salaries or increasing benefits for teachers and other staff shall file a report with the department within six months of being granted the rate adjustment. The report shall specify the specific salary rates and benefits that were raised, the salary rates and benefits before and after the raise, the number of staff covered by each raise, and a line-item budget showing the annual cost of the salary and benefit increases. The department shall compare the rate adjustment request and the report to verify that any rate adjustment granted for the purpose of raising salaries or increasing benefits was used for that purpose and shall rescind any portion of that rate adjustment that was not used for this purpose.

SEC. 5. (a) The reimbursement of providers of child care programs at a rate in excess of the standard reimbursement rate pursuant to subdivision (b) of Section 8265 and the rate established pursuant to



paragraph (2) of subdivision (a) of Section 8470 of the Education Code shall be implemented only during those fiscal years for which funding is provided for that purpose in the annual Budget Act or in another measure.

(b) For the purposes of making computations required by Section 8 of Article XVI of the California Constitution, any appropriation to implement the reimbursement described in subdivision (a) shall be deemed to be “General Fund revenues appropriated to school districts,” as defined in subdivision (c) of Section 41202 of the Education Code for the 2001–02 fiscal year and be included within the “total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B,” as defined in subdivision (e) of Section 41202 of the Education Code for the 2001–02 fiscal year.



Approved _____, 2000

Governor

