AMENDED IN ASSEMBLY JUNE 22, 2010

AMENDED IN ASSEMBLY MARCH 18, 2010

AMENDED IN ASSEMBLY JULY 8, 2009

AMENDED IN SENATE JUNE 1, 2009

AMENDED IN SENATE MAY 20, 2009

AMENDED IN SENATE MAY 4, 2009

AMENDED IN SENATE MARCH 31, 2009

SENATE BILL No. 244

Introduced by Senator Wright
(Coauthors: Senators Alquist, Hancock, and Liu)

February 24, 2009

An act to amend Sections 8236 and 8263 of the Education Code, relating to children's services.

LEGISLATIVE COUNSEL'S DIGEST

SB 244, as amended, Wright. Children's services: high-risk children.

Existing law requires the Superintendent of Public Instruction to administer child care and development programs, including California state preschool programs, and requires applicants and contracting agencies to give first priority to children who meet specified criteria, including 3- or 4-year-old neglected or abused children who are the recipients of child protective services.

This bill would also give first priority to neglected or abused children who are in family maintenance, family preservation, and unification, and to certain other high-risk children who meet specified criteria. The bill would give certain high-risk children the right to continuous

enrollment in a state preschool program or a child care and development program that is licensed or is operated by a local educational agency if the child's residence or placement changes.

Under existing law, a family is required to meet certain requirements to be eligible for federal and state subsidized child development programs, and requires certain children to be given first priority for those services.

This bill would expand the eligibility requirements to include certain other high-risk children, and would also require first priority to be given to children from birth to 5 years of age who meet specified other requirements. The bill would require each county operating a state-funded child care and development program to annually inform the State Department of Education if the county does not provide information on child care and development programs, as specified.

By imposing additional duties on local agencies, the bill would impose a state-mandated local program.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

SECTION 1. Section 8236 of the Education Code is amended to read:

8236. (a) (1) Each applicant or contracting agency funded pursuant to Section 8235 shall give first priority to three- or four-year-old neglected or abused children who are recipients of child protective services, which includes neglected or abused children who are in family maintenance~~, family preservation, and unification~~ *pursuant to subdivision (g) of Section 16501 and Section 16506 of the Welfare and Institutions Code, family preservation pursuant to clause (ii) of subparagraph (A) of paragraph (1) of subdivision (a) of Section 16500.5 of the Welfare and Institutions Code, and reunification pursuant to subdivision* *(h) of Section 16501 of the Welfare and Institutions Code*, or who are at risk of being neglected, abused, or exploited upon written referral from a legal, medical, or social service agency, or who were in protective services and are now in permanent placement with an income-eligible caregiver, or who are the children of youth currently in foster care. If an agency is unable to enroll a child in this first priority category, the agency shall refer the child's parent or guardian to local resource and referral services so that services for the child can be located.

(2) Notwithstanding Section 8263, after children in the first priority category set forth in paragraph (1) are enrolled, each agency funded pursuant to Section 8235 shall give priority to eligible four-year-old children prior to enrolling eligible three-year-old children. Each agency shall certify to the Superintendent that enrollment priority is being given to eligible four-year-old children.

(b) For California state preschool programs operating with funding that was initially allocated in a prior fiscal year, at least one-half of the children enrolled at a preschool site shall be four-year-old children. Any exception to this requirement shall be approved by the Superintendent. The Superintendent shall inform the Secretary for Education and the Department of Finance of any exceptions that have been granted and the reasons for granting the exceptions.

(c) The following provisions apply to the award of new funding for the expansion of the California state preschool program that is appropriated by the Legislature for that purpose in any fiscal year:

(1) In an application for those expansion funds, an agency shall furnish the Superintendent with an estimate of the number of four-year-old and three-year-old children that it plans to serve in the following fiscal year with those expansion funds. The agency also shall furnish documentation that indicates the basis of those estimates.

(2) In awarding contracts for expansion pursuant to this subdivision, the Superintendent, after taking into account the geographic criteria established pursuant to Section 8279.3, and the headquarters preferences and eligibility criteria relating to fiscal or programmatic noncompliance established pursuant to Section 8261, shall give priority to applicant agencies that, in expending

the expansion funds, will be serving the highest percentage of four-year-old children.

(d) Nothing in this section shall be deemed to preclude a local educational agency from subcontracting with an appropriate public or private agency to operate a California state preschool program and to apply for funds made available for the purposes of this section. If a school district chooses not to operate or subcontract for a California state preschool program, the Superintendent shall work with the county office of education and other eligible agencies to explore possible opportunities in contracting or alternative subcontracting to provide a California state preschool program.

(e) Nothing in this section shall prevent eligible children who are currently receiving services from continuing to receive those services in future years pursuant to this chapter.

(f) In order to promote continuity of services, the following children have the right to continuous enrollment in a state preschool program for the remainder of the school year if the child's residence or placement changes:

(1) Neglected or abused children who are recipients of child protective services.

(2) Children who are at risk of being neglected or abused.

(3) Children of youth in foster care.

SEC. 2. Section 8263 of the Education Code is amended to read:

8263. (a) The Superintendent shall adopt rules and regulations on eligibility, enrollment, and priority of services needed to implement this chapter. In order to be eligible for federal and state subsidized child development services, families shall meet at least one requirement in each of the following areas:

(1) A family is (A) a current aid recipient, (B) income eligible, (C) homeless, or (D) one whose children are recipients of protective services, which includes neglected or abused children who are in ~~family maintenance, family preservation, and reunification, or~~ *family maintenance pursuant to subdivision (g) of Section 16501 and Section 16506 of the Welfare and Institutions Code, family preservation pursuant to clause (ii) of subparagraph (A) of paragraph (1) of subdivision (a) of Section 16500.5 of the Welfare and Institutions Code, and reunification pursuant to subdivision (h) of Section 16501 of the Welfare and Institutions Code, or* whose children have been identified as being abused, neglected, or

exploited, or at risk of being abused, neglected, or exploited, or who were in protective services, are between birth and five years of age, are now in permanent placement with an income-eligible caregiver, or who are the children of youth currently in foster care.

(2) A family needs the child care services (A) because the child is identified by a legal, medical, social services agency, or emergency shelter as (i) a recipient of protective services or (ii) being neglected, abused, or exploited, or at risk of neglect, abuse, or exploitation, or (B) because the parents are (i) engaged in vocational training leading directly to a recognized trade, paraprofession, or profession, (ii) employed or seeking employment, (iii) seeking permanent housing for family stability, (iv) incapacitated, or (v) foster youth attending high school or an alternative program aimed at completing requirements for a high school diploma or passing the General Education Development (GED) test.

(b) Except as provided in Article 15.5 (commencing with Section 8350), priority for state and federally subsidized child development services is as follows:

(1) (A) First priority shall be given to neglected or abused children who are recipients of child protective services, or children who are at risk of being neglected or abused, upon written referral from a legal, medical, or social services agency, or children from birth to five years of age enrolling in a child care and development program that is licensed or is operated by a local educational agency who are either children of foster youth or children in permanent placement with income-eligible caregivers. If an agency is unable to enroll a child in the first priority category, the agency shall refer the family to local resource and referral services to locate services for the child.

(B) A family who is receiving child care on the basis of being a child at risk of abuse, neglect, or exploitation, as defined in subdivision (k) of Section 8208, is eligible to receive services pursuant to subparagraph (A) for up to three months, unless the family becomes eligible pursuant to subparagraph (C) or for up to 12 months for children from birth to five years of age who are enrolled in a child care and development program that is licensed or is operated by a local educational agency.

(C) A family may receive child care services for up to 12 months on the basis of a certification by the county child welfare agency that child care services continue to be necessary or, if the child is receiving child protective services during that period of time, and the family requires child care and remains otherwise eligible. This time limit does not apply if the family's child care referral is recertified by the county child welfare agency.

(2) Second priority shall be given equally to eligible families, regardless of the number of parents in the home, who are income eligible. Within this priority, families with the lowest gross monthly income in relation to family size, as determined by a schedule adopted by the Superintendent, shall be admitted first. If two or more families are in the same priority in relation to income, the family that has a child with exceptional needs shall be admitted first. If there is no family of the same priority with a child with exceptional needs, the same priority family that has been on the waiting list for the longest time shall be admitted first. For purposes of determining order of admission, the grants of public assistance recipients shall be counted as income.

(3) The Superintendent shall set criteria for and may grant specific waivers of the priorities established in this subdivision for agencies that wish to serve specific populations, including children with exceptional needs or children of prisoners. These new waivers shall not include proposals to avoid appropriate fee schedules or admit ineligible families, but may include proposals to accept members of special populations in other than strict income order, as long as appropriate fees are paid.

(c) Notwithstanding any other provision of law, in order to promote continuity of services, a family enrolled in a state or federally funded child care and development program whose services would otherwise be terminated because the family no longer meets the program income, eligibility, or need criteria may continue to receive child development services in another state or federally funded child care and development program if the contractor is able to transfer the family's enrollment to another program for which the family is eligible prior to the date of termination of services or to exchange the family's existing enrollment with the enrollment of a family in another program, provided that both families satisfy the eligibility requirements for the program in which they are being enrolled. The transfer of enrollment may be to another program within the same administrative agency or to another agency that administers state or federally funded child care and development programs.

(d) In order to promote continuity of services, the Superintendent may extend the 60-working-day period specified in subdivision (a) of Section 18101 of Title 5 of the California Code of Regulations for an additional 60 working days if he or she determines that opportunities for employment have diminished to the degree that one or both parents cannot reasonably be expected to find employment within 60 working days and granting the extension is in the public interest. The scope of extensions granted pursuant to this subdivision shall be limited to the necessary geographic areas and affected persons, which shall be described in the Superintendent's order granting the extension. It is the intent of the Legislature that extensions granted pursuant to this subdivision improve services in areas with high unemployment rates and areas with disproportionately high numbers of seasonal agricultural jobs.

(e) In order to promote continuity of services, the following children from birth to five years of age shall have the right to continuous enrollment in a child care and development program that is licensed or is operated by a local educational agency if the child's residence or placement changes:

(1) Children who are neglected or abused who are recipients of child protective services.

(2) Children who are at risk of abuse, neglect, or exploitation.

(3) Children of youth in foster care.

(f) A physical examination and evaluation, including age-appropriate immunization, shall be required prior to, or within six weeks of, enrollment. A standard, rule, or regulation shall not require medical examination or immunization for admission to a child care and development program of a child whose parent or guardian files a letter with the governing board of the child care and development program stating that the medical examination or immunization is contrary to his or her religious beliefs, or provide for the exclusion of a child from the program because of a parent or guardian having filed the letter. However, if there is good cause to believe that a child is suffering from a recognized contagious or infectious disease, the child shall be temporarily excluded from the program until the governing board of the child care and development program is satisfied that the child is not suffering from that contagious or infectious disease.

(g) Regulations formulated and promulgated pursuant to this section shall include the recommendations of the State Department of Health Care Services relative to health care screening and the provision of health care services. The Superintendent shall seek the advice and assistance of these health authorities in situations where service under this chapter includes or requires care of children who are ill or children with exceptional needs.

(h) (1) The Superintendent shall establish a fee schedule for families utilizing child care and development services pursuant to this chapter, including families receiving services under paragraph (1) of subdivision (b). Families receiving services under subparagraph (B) of paragraph (1) of subdivision (b) may be exempt from these fees for up to three months. Families receiving services under subparagraph (C) of paragraph (1) of subdivision (b) may be exempt from these fees for up to 12 months. The cumulative period of time of exemption from these fees for families receiving services under paragraph (1) of subdivision (b) shall not exceed 12 months.

(2) The income of a recipient of federal supplemental security income benefits pursuant to Title XVI of the federal Social Security Act (42 U.S.C. Sec. 1381 et seq.) and state supplemental program benefits pursuant to Title XVI of the federal Social Security Act and Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code shall not be included as income for the purposes of determining the amount of the family fee.

(i) The family fee schedule shall include, but not be limited to, the following restrictions:

(1) Fees shall not be assessed for families whose children are enrolled in the state preschool program.

(2) A contractor or provider may require parents to provide diapers. A contractor or provider offering field trips either may include the cost of the field trips within the service rate charged to the parent or may charge parents an additional fee. Federal or state money shall not be used to reimburse parents for the costs of field trips if those costs are charged as an additional fee. A contractor or provider that charges parents an additional fee for field trips shall inform parents, prior to enrolling the child, that a

fee may be charged and that no reimbursement will be available. A contractor or provider may charge parents for field trips or require parents to provide diapers only under the following circumstances:

(A) The provider has a written policy that is adopted by the agency's governing board that includes parents in the decisionmaking process regarding both of the following:

(i) Whether or not, and how much, to charge for field trip expenses.

(ii) Whether or not to require parents to provide diapers.

(B) The maximum total of charges per child in a contract year does not exceed twenty-five dollars ($25).

(C) A child shall not be denied participation in a field trip due to the parent's inability or refusal to pay the charge. Adverse action shall not be taken against a parent for that inability or refusal.

Each contractor or provider shall establish a payment system that prevents the identification of children based on whether or not their parents have paid a field trip charge.

Expenses incurred and income received for field trips pursuant to this section shall be reported to the department. The income received for field trips shall be reported specifically as restricted income.

(j) The Superintendent shall establish guidelines for the collection of employer-sponsored child care benefit payments from a parent whose child receives subsidized child care and development services. These guidelines shall provide for the collection of the full amount of the benefit payment, but not to exceed the actual cost of child care and development services provided, notwithstanding the applicable fee based on the fee schedule.

(k) The Superintendent shall establish guidelines according to which the director or a duly authorized representative of the child care and development program will certify children as eligible for state reimbursement pursuant to this section.

(*l*) Public funds shall not be paid directly or indirectly to an agency that does not pay at least the minimum wage to each of its employees.

(m) A county operating a state-funded child care and development program shall annually inform the department if the county does not provide information on child care and development programs, including state preschool programs, and how to select a high-quality program to parents and caregivers of children from birth to five years of age who are in child protective services and to foster youth who have young children.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.