

Assembly Bill No. 435

CHAPTER 703

An act to amend Section 8340.2 of, and to add and repeal Article 15.1.1 (commencing with Section 8333) of Chapter 2 of Part 6 of Division 1 of Title 1 of, the Education Code, relating to child care.

[Approved by Governor October 12, 2017. Filed with
Secretary of State October 12, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 435, Thurmond. Child care subsidy plans: Counties of Alameda, Contra Costa, Marin, and Sonoma.

(1) The Child Care and Development Services Act has a purpose of providing a comprehensive, coordinated, and cost-effective system of child care and development services for children from infancy to 13 years of age and their parents, including a full range of supervision, health, and support services through full- and part-time programs. Existing law requires the Superintendent of Public Instruction to develop standards for the implementation of quality child care programs. Existing law authorizes the County of Alameda and the County of Santa Clara, as a pilot project, to develop an individualized county child care subsidy plan, as provided.

This bill would authorize, until January 1, 2023, the Counties of Contra Costa, Marin, and Sonoma to develop individualized county child care subsidy plans, as specified. The bill would require the plans to be submitted by the counties to their local planning council and their respective county board of supervisors for approval, as specified. The bill would require the Early Education and Support Division of the State Department of Education to review and approve or disapprove the plans and any subsequent modifications to the plans and, in specified situations, would require the State Department of Social Services to review the plans. The bill would require the counties to annually prepare and submit to the Legislature, the State Department of Social Services, and the State Department of Education a report that contains specified information relating to the success of the counties' plans.

This bill would make legislative findings and declarations as to the necessity of a special statute for the Counties of Contra Costa, Marin, and Sonoma.

(2) Existing law authorizes the County of Alameda, as a pilot project, to develop an individualized county child care subsidy plan, as provided. Existing law requires the plan to include specified elements, including the development of a local policy, as provided. Existing law requires the local policy to, among other things, authorize an agency that provides child care and development services in the county through a contract with the State

Department of Education and either provides direct services or contracts with licensed providers or centers to apply to the department to amend existing contracts in order to benefit from the local policy.

This bill would instead require the local policy, among other things, to authorize an agency that provides child care and development services in the county through a contract with the department to apply to the department to amend existing contracts in order to benefit from the local policy.

Existing law authorizes the local policy to supersede state law concerning child care subsidy programs with regard to certain factors, including eligibility criteria relating to CalWORKs participation, with exceptions.

This bill would also authorize the local policy to supersede California state preschool eligibility periods, as specified, and would delete the above provisions relating to superseding eligibility criteria relating to CalWORKs participation and the exceptions.

Existing law requires the plan to include a recognition that all funding sources utilized by direct service contractors that provide child care and development services in the County of Alameda and contractors that contract with licensed providers and centers are eligible to be included in the county's plan.

This bill would instead require the plan to include a recognition that all funding sources utilized by contractors that provide child care and development services in the County of Alameda are eligible to be included in the county's plan.

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

SECTION 1. It is the intent of the Legislature to build a stable, comprehensive, and adequately funded high-quality early learning and educational support system for children from birth to five years of age, inclusive, with alignment and integration into the K–12 education system by strategically using state and federal funds, and engaging all early care and education stakeholders, including K–12 education stakeholders, in an effort to provide access to affordable, high-quality services supported by adequate rates, integrated data systems, and a strong infrastructure that supports children and the educators who serve them.

SEC. 2. Article 15.1.1 (commencing with Section 8333) is added to Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code, to read:

Article 15.1.1. Individualized Child Care Subsidy Plans for the Counties of Contra Costa, Marin, and Sonoma

8333. The Counties of Contra Costa, Marin, and Sonoma may individually, as pilot projects, develop and implement individualized county child care subsidy plans. The plans shall ensure that child care subsidies received by these counties are used to address local needs, conditions, and priorities of working families in the respective communities.

8333.1. For purposes of this article, “county” means the Counties of Contra Costa, Marin, and Sonoma.

8333.2. (a) For purposes of this article, “plan” means an individualized county child care subsidy plan developed and approved under the pilot project described in Section 8333, which includes all of the following:

(1) An assessment to identify the county’s goals for its subsidized child care system. The assessment shall examine whether the current structure of subsidized child care funding adequately supports working families in the county and whether the county’s child care goals coincide with the state’s requirements for funding, eligibility, priority, and reimbursement. The assessment shall also identify barriers in the state’s child care subsidy system that inhibit the county from meeting its child care goals. In conducting the assessment, the county shall consider all of the following:

(A) The general demographics of families who are in need of child care, including employment, income, language, ethnic, and family composition.

(B) The current supply of available subsidized child care.

(C) The level of need for various types of subsidized child care services, including, but not limited to, infant care, after-hours care, and care for children with exceptional needs.

(D) The county’s self-sufficiency income level.

(E) Income eligibility levels for subsidized child care.

(F) Family fees.

(G) The cost of providing child care.

(H) The regional market rates, as established by the department, for different types of child care.

(I) The standard reimbursement rate or state per diem for centers operating under contracts with the department.

(J) Trends in the county’s unemployment rate and housing affordability index.

(2) (A) Development of a local policy to eliminate state-imposed regulatory barriers to the county’s achievement of its desired outcomes for subsidized child care.

(B) The local policy shall do all of the following:

(i) Prioritize lowest income families first.

(ii) Follow the family fee schedule established pursuant to Section 8273 for those families who are income eligible, as defined by Section 8263.1, and provide the exemptions for family fees specified in Section 8273.1.

(iii) Meet local goals that are consistent with the state’s child care goals.

(iv) Identify existing policies that would be affected by the county’s plan.

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

(II) The department shall approve an application to amend an existing contract if the plan is modified pursuant to Section 8333.3.

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

(vi) Provide a family that qualifies for the second or third stage of child care services pursuant to Article 15.5 (commencing with Section 8350), for purposes of eligibility, fees, and reimbursements, the same or higher level of benefit as a family that qualifies for subsidized child care on another basis pursuant to the local policy, except as otherwise provided in Article 15.5 (commencing with Section 8350). Nothing in this section shall be interpreted to impact or reduce any element in the second or third stage of child care services pursuant to Article 15.5 (commencing with Section 8350) that provides a greater benefit to participating families than is provided for in the local policy.

(C) The local policy may supersede state law concerning child care subsidy programs with regard only to the following factors:

(i) Eligibility criteria, including, but not limited to, age, family size, time limits, income level, and special needs considerations.

(ii) Fees, including, but not limited to, family fees, sliding scale fees, and copayments for those families who are not income eligible, as defined by Section 8263.1.

(iii) Reimbursement rates.

(iv) Methods of maximizing the efficient use of subsidy funds, including, but not limited to, multiyear contracting with the department for center-based child care, and interagency agreements that allow for flexible and temporary transfer of funds among agencies.

(v) Families with children enrolled in part-day California state preschool programs services, pursuant to Article 7 (commencing with Section 8235), may be eligible for up to two 180-day periods within a 24-month period without the family being certified as a new enrollment each year.

(3) Recognition that all funding sources utilized by contractors that provide child care and development services in the county are eligible to be included in the county's plan.

(4) Establishment of measurable outcomes to evaluate the success of the plan to achieve the county's child care goals, and to overcome any barriers identified in the state's child care subsidy system.

(b) A plan may also include stage one child care services and all voucher-based child care programs.

(c) Nothing in this section shall be construed to permit the county to change the regional market rate survey results for the county.

8333.3. (a) The plan shall be submitted to the local planning council, as defined in subdivision (g) of Section 8499, for approval. Upon approval of the plan by the local planning council, the board of supervisors of the county shall hold at least one public hearing on the plan. Following the hearing, if the board votes in favor of the plan, the plan shall be submitted to the Early Education and Support Division of the department for review. If the plan includes stage one child care services, the plan shall also be submitted to the State Department of Social Services for review only.

(b) Within 30 days of receiving the plan, the Early Education and Support Division shall review and either approve or disapprove the plan.

(c) Within 30 days of receiving a modification to the plan, the Early Education and Support Division shall review and either approve or disapprove that modification to the plan.

(d) The Early Education and Support Division may disapprove only those portions of modifications to the plan that are not in conformance with this article or that are in conflict with federal law.

8333.4. The county shall, by the end of the first fiscal year of operation under the approved child care subsidy plan, demonstrate, in the report required pursuant to Section 8333.5, an increase in the aggregate days a child is enrolled in child care in the county as compared to the enrollment in the final quarter of the 2016–17 fiscal year.

8333.5. (a) The county shall annually prepare and submit to the Legislature, the State Department of Social Services, and the department a report that summarizes the success of the county's plan, and the county's ability to maximize the use of funds and to improve and stabilize child care in the county.

(b) The department shall review the report submitted pursuant to subdivision (a), along with any applicable programmatic and fiscal compliance records submitted by the contracting agencies participating in the plan, and determine whether to allow the county to continue with the plan without change, or whether to require modifications to be made to the plan.

(c) The county shall, by the end of the first fiscal year of operation under the approved plan, demonstrate, in the report required pursuant to this section, that there was no reduction in the number of children served as compared to the number of children served before the implementation of the plan.

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

8333.6. A participating contractor shall receive any increase or decrease in funding that the contractor would have received if the contractor had not participated in the plan.

8333.7. This article shall remain in effect only until January 1, 2023, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2023, deletes or extends that date.

SEC. 3. Section 8340.2 of the Education Code is amended to read:

8340.2. (a) For purposes of this article, "plan" means an individualized county child care subsidy plan developed and approved under the pilot project described in Section 8340, which includes all of the following:

(1) An assessment to identify the county's goals for its subsidized child care system. The assessment shall examine whether the current structure of subsidized child care funding adequately supports working families in the county and whether the county's child care goals coincide with the state's requirements for funding, eligibility, priority, and reimbursement. The assessment shall also identify barriers in the state's child care subsidy system

that inhibit the county from meeting its child care goals. In conducting the assessment, the county shall consider all of the following:

(A) The general demographics of families who are in need of child care, including employment, income, language, ethnic, and family composition.

(B) The current supply of available subsidized child care.

(C) The level of need for various types of subsidized child care services, including, but not limited to, infant care, after-hours care, and care for children with exceptional needs.

(D) The county's self-sufficiency income level.

(E) Income eligibility levels for subsidized child care.

(F) Family fees.

(G) The cost of providing child care.

(H) The regional market rates, as established by the department, for different types of child care.

(I) The standard reimbursement rate or state per diem for centers operating under contracts with the department.

(J) Trends in the county's unemployment rate and housing affordability index.

(2) (A) Development of a local policy to eliminate state-imposed regulatory barriers to the county's achievement of its desired outcomes for subsidized child care.

(B) The local policy shall do all of the following:

(i) Prioritize lowest income families first.

(ii) Follow the family fee schedule established pursuant to Section 8273 for those families that are income eligible, as defined by Section 8263.1, and provide the exemptions for family fees specified in Section 8273.1.

(iii) Meet local goals that are consistent with the state's child care goals.

(iv) Identify existing policies that would be affected by the county's plan.

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

(II) The department shall approve an application to amend an existing contract if the plan is modified pursuant to Section 8340.3.

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

(vi) Provide a family that qualifies for the second or third stage of child care services pursuant to Article 15.5 (commencing with Section 8350), for purposes of eligibility, fees, and reimbursements, the same or higher level of benefit as a family that qualifies for subsidized child care on another basis pursuant to the local policy, except as otherwise provided in Article 15.5 (commencing with Section 8350). Nothing in this section shall be interpreted to impact or reduce any element in the second or third stage of child care services pursuant to Article 15.5 (commencing with Section 8350) that provides a greater benefit to participating families than is provided for in the local policy.

(C) The local policy may supersede state law concerning child care subsidy programs with regard only to the following factors:

(i) Eligibility criteria, including, but not limited to, age, family size, time limits, income level, and special needs considerations.

(ii) Fees, including, but not limited to, family fees, sliding scale fees, and copayments for those families that are not income eligible, as defined by Section 8263.1.

(iii) Reimbursement rates.

(iv) Methods of maximizing the efficient use of subsidy funds, including, but not limited to, multiyear contracting with the department for center-based child care, and interagency agreements that allow for flexible and temporary transfer of funds among agencies.

(v) Families with children enrolled in part-day California state preschool program services, pursuant to Article 7 (commencing with Section 8235), may be eligible for up to two 180-day periods within a 24-month period without the family being certified as a new enrollment each year.

(3) Recognition that all funding sources utilized by contractors that provide child care and development services in the county are eligible to be included in the county's plan.

(4) Establishment of measurable outcomes to evaluate the success of the plan to achieve the county's child care goals, and to overcome any barriers identified in the state's child care subsidy system.

(b) Nothing in this section shall be construed to permit the county to change the regional market rate survey results for the county.

SEC. 4. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances in the Counties of Contra Costa, Marin, and Sonoma. Existing law does not reflect the fiscal reality of living in these high-cost counties where the cost of living is well beyond the state median level, resulting in reduced access to quality child care. In recognition of the unintended consequences of living in a high-cost county, this act is necessary to provide children and families in the Counties of Contra Costa, Marin, and Sonoma proper access to child care through individualized county child care subsidy plans.