

Date of Hearing: April 24, 2019

ASSEMBLY COMMITTEE ON EDUCATION  
Patrick O'Donnell, Chair  
AB 167 (Blanca Rubio) – As Amended April 3, 2019

**[Note: This bill was double referred to the Assembly Human Services Committee and was heard by that Committee as it relates to issues under its jurisdiction.]**

**SUBJECT:** Childcare and development services: infants and toddlers: state funding

**SUMMARY:** Creates the “California Partnership for Infants and Toddlers” to provide grants to specified providers serving infants and toddlers, subject to an appropriation, if they agree to meet specified standards, and to provide full-day, full-year care. Also states legislative intent to provide funding to provide childcare for an additional 20,000 infants and toddlers. Specifically, **this bill:**

- 1) Makes a number of Legislative findings and declarations related to the importance of educational and developmental experiences during the first three years of a child’s life, and the current lack of access to subsidized childcare and quality learning programs with comprehensive supportive services for many families in California.
- 2) Expresses the intent of the Legislature to address the childcare crisis by appropriating, in the annual Budget Act or other statute, funding to childcare and development programs and family childcare home education networks (FCCHENs) sufficient to serve an additional 20,000 infants and toddlers from birth to three years of age with high-quality, comprehensive, family-centered childcare that adheres to the federal Head Start program performance standards.
- 3) Creates the “California Partnership for Infants and Toddlers,” requiring state grant support in the amount of \$4,000 per child per year to be made available, upon appropriation, as specified, to qualifying childcare and development programs and FCCHENs that serve infants and toddlers ages birth to three years old.
- 4) Requires childcare and development programs and FCCHENs to be eligible for the grants established pursuant to this bill if they both:
  - a) Agree to meet the federal Head Start program performance standards.
  - b) Provide full-day, full-year childcare for infants and toddlers ages birth to three years old.
- 5) Authorizes, for purposes of awarding grants pursuant to the provisions of this bill, the California Department of Education (CDE) to waive an element of the federal Head Start program performance standards in order to meet unique needs, as specified, and requires the CDE to evaluate the need for this waiver on an annual basis.
- 6) Requires that, in order to be eligible for grants established pursuant to this bill, applicants be:
  - a) An existing provider, upon contract renewal.

- b) An applicant for any new childcare and development program or FCCHEN slots serving infants and toddlers that are made available, as specified.
- 7) Requires, as a condition of grant receipt, a grantee to develop and implement a plan to improve quality and provide comprehensive education, health, development, and family support services to achieve the federal Head Start program performance standards.
- 8) Requires a grantee to demonstrate, each year, incremental progress towards implementing its plan to meet any federal Head Start program performance standards for which it has not been granted a waiver pursuant to provisions of this bill, as specified, and further, requires a grantee to meet those standards in full within four years of the initial grant.
- 9) Requires CDE to provide technical assistance, as specified, to a childcare and development program or FCCHEN applying for or receiving funding pursuant to provisions of this bill.
- 10) Requires CDE to give priority for grant awards to childcare and development programs and FCCHENs that serve a high proportion of children who are homeless, living in poverty, or have been, or are at risk of being, neglected or abused.
- 11) Authorizes a FCCHEN that receives funding pursuant to provisions of this bill to reimburse providers at a rate above the regional market rate (RMR) to meet the federal Head Start program performance standards.
- 12) Requires CDE to adopt regulations to implement the provisions of this bill as soon as reasonably possible and authorizes CDE to implement and administer the provisions of this bill through the issuance of guidance or other written directives until such regulations are adopted, as specified.

**EXISTING LAW:**

- 1) Establishes the “Child Care and Development Services Act” to provide childcare and development services as part of a coordinated, comprehensive, and cost-effective system serving children from birth to 13 years old and their parents including a full range of supervision, health, and support services through full- and part-time programs. (EC 8200 *et seq.*)
- 2) Defines “childcare and development services” to mean services designed to meet a wide variety of children’s and families’ needs while parents and guardians are working, in training, seeking employment, incapacitated, or in need of respite and states that these services may include direct care supervision, instructional activities, resource and referral programs, and alternative payment arrangements. (EC 8208)
- 3) States the intent of the Legislature that all families have access to childcare and development services, through resource and referral where appropriate, and regardless of demographic background or special needs, and that families are provided the opportunity to attain financial stability through employment, while maximizing growth and development of their children, and enhancing their parenting skills through participation in childcare and development programs. (EC 8202)

- 4) Requires the Superintendent of Public Instruction (SPI) to administer general childcare and development programs to include, among other things as specified, age- and developmentally-appropriate activities, supervision, parenting education and involvement, and nutrition. Further allows such programs to be designed to meet child-related needs identified by parents or guardians, as specified. (EC 8240 and 8241)
- 5) Requires families to meet certain criteria in order to be eligible for federal and state subsidized child development services, including that a family must be either a current aid recipient, income eligible, homeless, or one whose children are recipients of protective services or have been identified as being, or at risk of being, abused, or neglected, as specified. Also requires families to establish a need for childcare, because the parent is employed, engaged in education or training programs, seeking employment, seeking permanent housing, or incapacitated, as specified. (EC 8263)
- 6) Requires the SPI to implement a plan that establishes reasonable standards and assigned reimbursement rates for childcare and development services, to vary by length of program year and hours of service, and establishes amounts for, and provides for an annual cost-of-living adjustment to, the standard reimbursement rate (SRR) for contracted providers. (EC 8265)
- 7) Provides for the establishment of RMR ceilings for voucher-based childcare and states Legislative intent that child care providers be reimbursed at the 85th percentile of the most recent RMR survey. (EC 8222, 8357)
- 8) Defines a “family childcare home education network” (FCCHEN) to mean an entity organized under law that contracts with the CDE, as specified, to make payments to licensed family child care home providers, and to provide educational and support services to providers and to children and families eligible for state-subsidized child care and development services. (EC 8208)
- 9) Requires the SPI to contract with entities organized under law to operate FCCHENs, as specified, and establishes requirements for FCCHEN programs. (EC 8245 and 8246)
- 10) Establishes in federal law the Head Start Act to promote the school readiness of low-income children by enhancing their cognitive, social, and emotional development through designation and allocation of funds to qualified agencies, as specified. (42 U.S. Code Section 9801 *et seq.*)

**FISCAL EFFECT:** Unknown

**COMMENTS:** This bill expresses legislative intent to provide an additional 20,000 subsidized childcare slots for infants and toddlers and would provide an additional \$4,000 per child, above current reimbursement rates, to those providers agreeing to provide full-day, full-year care, and to meet the federal Head Start performance standards, which generally exceed current standards for California’s subsidized childcare programs. For example, Head Start standards require wraparound services including health, mental health, and family engagement, as well as having higher qualifications for teachers.

**Need for the bill.** According to the author, “California’s current early care and education system leaves too many low-income babies behind. Just nine percent of California’s low-income infants and toddlers are enrolled in subsidized child care. Even fewer families have access to the high-quality early learning programs with comprehensive support services that have the greatest positive impact on low-income babies. This bill will help close the early learning opportunity gap facing our youngest children by strengthening and expanding child care and development programs for infants and toddlers based on the effective, high-quality Early Head Start model.”

**California has a complex system of early childhood programs.** California’s system of subsidized early care and education (ECE) is made up of a complex system of programs serving children from birth through 13 years, funded through a mix of federal and state dollars, and administered through a mixed delivery system by local education agencies, and community-based providers. The major direct service ECE programs serving infants and toddlers include, but are not limited to, the following:

Program	Description	2018-19 Enrollment
General Child Care	Provided through contracted centers and family child care home networks that are administered through private or public agencies and offer child care, education, and development services.	28,427*
Alternative Payment Programs (APPs)	Offers families vouchers that allow them to choose their own child care in either centers, family child care homes, or license-exempt settings.	47,526*
California Work Opportunity and Responsibility to Kids (CalWORKs) child care	For parents who receive or have received CalWORKs. CalWORKs child care can be provided in centers, family child care homes, or license-exempt settings and is paid for using vouchers. Stage 1 is administered by DSS and Stages 2 & 3 are administered by CDE.	141,837*
Head Start	A national program providing comprehensive developmental services for low-income children from birth to entry into elementary school. California's Head Start program is the largest in the nation.	Estimated at more than 100,000 children

\*Based upon 2018-19 Governor’s Budget

**The benefits of high-quality infant and toddler care.** Researchers report that children begin learning at birth and every interaction that young children have with a caregiver adds to their experiences and influences the rapid brain development that occurs in the first few years of life. The ability of families to access childcare programs staffed by highly skilled and experienced teachers can have a major impact on children’s cognitive development. Nearly one in five infants in the U.S. live in poverty, leaving them at risk of falling behind before they can walk. The toxic stress associated with poverty can limit young children’s exposure to positive interactions and harm brain development. Research shows that gaps in children’s cognitive abilities by income are evident as early as nine months and significantly widen by the age of two.

***Access and affordability concerns.*** According to a 2018 Getting Down to Facts II Study, *Early Childhood Education in California*, the average annual cost of childcare for infants from birth through two years was \$8,462 for family child care and \$13,327 for care in a childcare center. California is one of the ten least affordable states for infant care, costing an average of 51 percent of the median income of a single parent and 15 percent of the median income of two parents.

Only 12 percent of California's infants and toddlers attend a licensed program: four percent of infants and toddlers are in licensed childcare centers, and eight percent are in licensed family child care homes, likely due to the high cost of care. There are large disparities in access to licensed care across counties. In Fresno County nine percent of infants and toddlers are enrolled in licensed care, while in San Francisco 19 percent are enrolled. Many young children are cared for in unlicensed settings, raising potential concerns for their health and safety.

***Assembly Blue Ribbon Commission on Early Childhood Education (BRC):*** The BRC was established with the intent to “plan an early learning system that works for and meets the needs of children, families, and providers.” The BRC, consisting of members appointed from the Assembly and stakeholders, began its work in early 2017, holding quarterly hearings and establishing subcommittees. Quarterly hearings and subcommittee meetings continued during 2018, and work was done to develop BRC recommendations. On March 11, 2019, draft recommendations were released. Recommendations include the following relating to access for children from birth to three years:

- Prioritize increased investment and remove barriers to increase access for infants and toddlers to ECE focusing first on low-income families or those facing barriers. Only five to ten percent of eligible infants and toddlers are served in subsidized programs.
- Develop adequate reimbursement rates for infants and toddlers in all settings.
- Remove barriers that prevent expansion of infant-toddler centers, including licensing and regulatory barriers, physical access, and facilities barriers.
- Design incentives for childcare centers and licensed family childcare home providers to expand capacity to serve infants and toddlers.
- Remove barriers to collaboration and coordination with Early Head Start to ensure California utilizes all available federal Early Head Start funds.
- Incentivize infant toddler focused quality improvements by all programs who receive state subsidies to engage in quality improvements and increase reimbursement.
- Build on work by Quality Counts California and the state consortia and establish an expanded work group to grow, review, and revise the current quality improvements and standards system.
- Increase integration and coherence of quality improvement programs, focusing on those that have been proven effective.

***Reimbursement rates.*** Two different sets of rate schedules apply to providers of subsidized childcare. For programs utilizing vouchers, which allow families to access child care through their choice of a licensed day care center, a licensed family child care home, or license-exempt

child, providers are reimbursed using the Regional Market Rate (RMR). These rates vary significantly from one county to another, reflecting differences in the cost of care. This table illustrates differences in the full-time daily rate for children from birth to 24 months:

Childcare Setting	Fresno County	Los Angeles County	Alameda County
Childcare center	\$72.73	\$96.53	\$114.06
Family childcare home	\$45.53	\$54.40	\$72.20
License-exempt care	\$31.87	\$39.48	\$50.54

Providers of contracted care – childcare and development programs that contract directly with the CDE, as opposed to voucher-based care – are reimbursed according to a uniform statewide rate system based on the Standard Reimbursement Rate (SRR). The fiscal year 2018-19 SRR for General Child Care is \$47.98 per child per day of enrollment or \$11,995 per year based on 250 days of operation. However, acknowledging the higher costs associated with providing care to certain populations, state law provides for “adjustment factors” to be multiplied by child days of enrollment to arrive at an adjusted SRR.

The 2018-19 Budget increased the SRR adjustment factor for children from birth to 18 months from 1.7 to 2.44, effective January 1, 2019, increasing the annual rate by 43 percent from \$20,391 to \$29,267. For children from 18 to 36 months the adjustment factor rose from 1.4 to 1.8, increasing the annual rate by 29 percent from \$16,793 to \$21,591.

**Head Start.** Head Start is a national program administered by the federal Administration on Children, Youth and Families. Head Start programs provide comprehensive developmental services for low-income children from birth to entry into elementary school. The Head Start Program Performance Standards set forth the requirements local grantees must meet to support the healthy cognitive, social, emotional, and physical development of children from birth to age five. They encompass requirements to provide education, health, mental health, nutrition, and family and community engagement services, as well as standards for local program governance and aspects of federal administration of the program.

**Program adds complexity to a complicated system and increases inequities.** One of the stated intents of the bill is to increase the quality of care for infant and toddler care in California. However, this initiative would create an additional level of complexity, in both reimbursement rates and quality monitoring, within an already complex system. **The Committee may wish to consider** whether this fragmented approach is likely to achieve the stated goal of improving quality or if it makes more sense to focus on increasing quality for the system as a whole by improving current Title 5 standards.

As noted earlier, the 2018-19 Budget Act included an increase in the adjustment factors to the SRR for infants and toddlers, by 43 percent for children from birth to 18 months and by 29 percent for children from 18 months to 36 months of age. **The Committee may wish to consider** whether a further rate increase of \$4,000 per child, subject to meeting specified standards, is warranted at this time, particularly as there is no guarantee that this increase would be linked to the creation of any additional slots.

Early Head Start programs include wraparound services not generally provided in state-subsidized childcare programs, including health and developmental screenings, parenting resources and support, and access to health, mental health, and social services. **The Committee**

*may wish to consider* whether efforts should be made to explore other existing state and federal sources of funding for these services prior to allocating additional childcare funding for this purpose. These could include billing options through Medi-Cal, as well as federal funding available for Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services.

This bill would provide an additional \$4,000 per child to existing providers meeting the requirements of this program as well as to applicants securing any of the 20,000 additional infant toddler spaces that may be created, pursuant to this bill and a budget appropriation, who agree to meet certain conditions, including meeting the Head Start performance standards, but does not necessarily provide additional funding to current Head Start providers who already meet those standards. *The Committee may wish to consider* whether this is an equitable approach.

Another bill pending before this committee, AB 125 (McCarty) proposes a comprehensive approach to simplifying and streamlining the reimbursement rate system and exploring means of incentivizing quality for the system as a whole. *The Committee may wish to consider* whether this bill is inconsistent with the more comprehensive approach of AB 125.

***Arguments in support.*** Supporters state that “the large-scale, federal Early Head Start program provides intensive, comprehensive high-quality child development and family support services with a two-generation approach to infants and toddlers living in poverty. Early Head Start performance standards require that programs provide developmentally appropriate early learning with qualified teachers, health and developmental screenings, nutritious food, parenting resources and support, and access to health, mental health, and social services. Research shows Early Head Start improves children’s cognitive, language, and social-emotional development, increases kindergarten readiness and strengthens parenting skills. California currently allows too many low-income infants and toddlers to fall through the cracks without access to the high-quality child care and crucial supports they need to thrive. Approximately 10% of California’s low-income infants and toddlers who are income-eligible for subsidized child care are enrolled. Even fewer families have access to the quality early learning programs with comprehensive support services, including health screening and family engagement. The Early Head Start program reaches only 9% of eligible children in California.

AB 167 will strengthen and expand child care programs for vulnerable infants and toddlers. The bill would support existing General Child Care and Family Child Care Home Education Network providers to meet higher quality standards based on the Early Head Start model. Child care providers serving infants and toddlers would receive \$4,000 per child in additional funding to reach and sustain the high level of quality.”

***Arguments in opposition.*** The California Right to Life Committee disagrees that there is recognized and increased academic achievement resulting from quality early childcare and education, citing the Abecedarian Project which has recently come under criticism for its limited scope of children involved. In general, it is now understood that there is no major gain for the child once he/she reaches 3rd grade. Therefore, the opponent argues, the advocacy for these programs is bad public policy and a misuse of public dollars.

***Prior and related legislation.*** AB 125 (McCarty) of this Session revises the state’s system and rates for reimbursing subsidized child care and development programs to create a more uniform reimbursement system reflecting regional costs of care, and establishes the “Quality Counts California Pilot Reimbursement Program” as a pilot program to provide higher reimbursement

rates to alternative payment program providers (APP) for meeting certain quality standards. This bill is pending before this Committee.

AB 194 (Reyes) of this Session requires, upon appropriation, \$1 billion to be invested in improving eligible children's and families' access to subsidized child care services. AB 194 is pending before the Assembly Appropriations Committee.

AB 1808 (Committee on Budget), Chapter 32, Statutes of 2018, among a number of other changes, adopted an increase to the infant reimbursement rate adjustment factor, raising it from 1.7 to 2.44, and raised the toddler reimbursement rate adjustment factor from 1.4 to 1.8.

AB 273 (Rendon) of the 2013-14 Session would have established the "California Partnership for Infants and Toddlers Act of 2013" and required the SPI to apply to the California Children and Families Commission for funds to fund the California Children and Families Program. AB 273 was held in the Assembly Appropriations Committee.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

American Academy of Pediatrics, California  
Association of Regional Center Agencies  
California Alternative Payment Program Association  
California Association of Food Banks  
California Food Policy Advocates  
California State PTA  
Children's Defense Fund - California  
Coalition of California Welfare Rights Organizations  
Early Edge California  
Friends Committee on Legislation of California  
Local Early Education Planning Council of Santa Clara County  
Mission: Readiness  
National Association of Social Workers, California Chapter  
ReadyNation  
Riverside Temple Beth El  
Tandem, Partners In Early Learning  
The Children's Partnership  
United Ways of California  
Zero To Three, California

### **Oppose**

California Right To Life Committee

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