Date of Hearing: April 24, 2019

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
AB 452 (Mullin) – As Amended April 11, 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: facilities: grants

SUMMARY: Establishes the California Childcare Facilities Grant Fund and requires the California Department of Education to provide grants, subject to available funding, for the construction of new childcare centers that serve children in subsidized childcare programs, as well as the renovation, repair and modernization of family childcare homes. Specifically, **this bill**:

1) Expresses findings and declarations related to infant and toddler child care, including: that it can be prohibitively expensive for families; that there is a scarcity of publicly funded care in California; the positive impacts that child care can have on a young child's learning, development, and health; the positive impacts that such care can have on parents' job stability and earnings and, in turn, on the economy in general; and that providing funding for facilities that house infant and toddler child care programs will leverage federal and state funds and promote expansion and greater access to high-quality programs for California families.

2) Deletes language in current law which establishes the Child Care Facilities Revolving Fund in the State Treasury to provide funding for loans for improving existing buildings for purposes of licensure for child care and development services and for the purchase of new relocatable child care facilities for lease to local educational agencies (LEAs) and contracting agencies that provide child care and development services and, further, deletes language in current law establishing requirements and authorizations related to administration, uses, and oversight of the fund, as specified.

3) Establishes the California Childcare Facilities Grant Fund in the State Treasury and requires, upon an appropriation for these purposes, the moneys in the fund to be used for the purposes specified.

4) Requires the California Department of Education (CDE) to develop and administer the California Childcare Facilities Grant Fund to support both of the following programs:

   a) The construction of new childcare centers that serve children in state-subsidized childcare and development programs.

   b) The renovation, repair, and modernization of family childcare homes that serve children in state-subsidized childcare and development programs.

5) Requires the CDE to ensure that the grant program does all of the following:

a) Awards grants of up to one million dollars for the construction of licensed childcare facilities that make at least 50 percent of their slots available for subsidized childcare for a period of no less than 10 years. Grants shall be targeted towards communities with the most need, as defined by the CDE in consultation with local childcare and development planning councils (LPCs).

b) Uses a simple application process.

c) Prioritizes provider applicants that are either of the following:

   i. Serving infants and toddlers.

   ii. Recovering from a disaster.

d) Allows, in order to avoid disadvantaging providers who prefer to rent, nonprovider entities, such as developers, to partner with providers to apply for grants.

e) Includes a mechanism for recouping grant moneys spent on projects that do not make at least 50 percent of their slots available for subsidized childcare for at least 10 years.

f) Offers technical assistance to applicants prior to being awarded a grant that includes, but is not limited to, project development support and financial expertise, including assistance with coordinating financing from multiple sources.

g) Requires grantees to report to the CDE, on an annual basis for the first 10 years of operation in the newly constructed facility, all of the following:

   i. The total number of children served, by age.

   ii. The total number of children served who received subsidized childcare, by age.

   iii. The total number of children served with exceptional needs.

6) Requires the CDE to ensure that the grant program developed does all of the following:

a) Awards grants of up to fifty thousand dollars for the renovation, repair, or modernization of licensed family childcare homes that make at least 50 percent of their slots available for subsidized childcare for a period of no less than five years. Grants shall be targeted towards communities with the most need, as defined by the CDE in consultation with LPCs.

b) Uses a simple application process.

c) Prioritizes provider applicants that are either of the following:

   i. Serving infants and toddlers.

   ii. Recovering from a disaster.

d) Includes a mechanism for recouping grant moneys spent on projects that do not make at least 50 percent of their slots available for subsidized childcare for at least five years, and provides for hardship waivers to recoupment requirements.

e) Offers technical assistance to applicants prior to being awarded a grant that includes, but is not limited to, project development support and financial expertise, including assistance with coordinating financing from multiple sources.

f) Requires grantees to report to the CDE, on an annual basis for the first five years of operation after completion of renovation, repair, or modernization, all of the following:

   i. The total number of children served, by age.

   ii. The total number of children served who received subsidized childcare, by age.

   iii. The total number of children served with exceptional needs.

7) Requires the CDE to annually collect and aggregate the data required to be reported by grant recipients, as specified, and to report this information to the Legislature by December 31 of each year. Requires the report submitted to be in compliance with Section 9795 of the Government Code.

8) Defines, for the purposes of this section, "state-subsidized childcare and development programs" and "subsidized childcare" as provided by all of the following:

   a) An LEA that provides childcare pursuant to the California School Age Families Education program.

   b) A Head Start or Early Head Start grantee that will use grant funds for projects that serve infants and toddlers.

   c) A state-subsidized childcare program provider.

   d) A family childcare home education network provider.

EXISTING LAW:

1) Establishes the Child Care Facilities Revolving Fund in the State Treasury to provide funding for loans for improving existing buildings for purposes of licensure for child and development services and for the purchase of new relocatable child care facilities for lease to LEAs and contracting agencies that provide child care and development services, and establishes requirements and authorizations related to administration, uses, and oversight of the Child Care Facilities Revolving Fund, as specified. (EC 8278.3)

FISCAL EFFECT: Unknown

COMMENTS:

Need for the bill. According to the author, "One of the fundamental causes for the shortage of quality childcare in California is the issue of facilities. Building a childcare center that meets all state and local ordinances requires funding and technical expertise that most childcare providers are unable to access. As a state, it is in our best interest to provide safe facilities for programs that serve our children so administrators and teachers can focus on providing high-quality care that meets their developmental needs."

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 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*
California State Preschool Program (CSPP)	Provides both part-day and full-day services to eligible three- and four-year-olds, including: developmentally appropriate curriculum, parent education, and meals and snacks. CSPP can be offered in various settings, including child care centers, family child care network homes, school districts, or county offices of education.	168,478*
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
Transitional Kindergarten (TK)	Transitional kindergarten is the first year of a two-year kindergarten program that uses a modified kindergarten curriculum that is age and developmentally appropriate. A child is eligible for TK if they have their fifth birthday between September 2 and December 2 (inclusive) and each school year thereafter	Approximately 90,000

*Based upon 2018-19 Governor's Budget

Less than 10 percent of eligible children from birth through 2 years of age are currently served in California's subsidized childcare programs. A 2017 report by the Learning Policy Institute, "Understanding California's Early Care and Education System," examined the need for child care and the capacity of the system to meet that need. They note that is difficult to gain an accurate count of the number of unique children served in each program for a number of reasons. Children enter and leave programs throughout the year, and due to a lack of a unique child identifier these children may be counted multiple times. Many children receive service from multiple programs simultaneously for different parts of the day and thus may again be counted more than once.

In addition, due to a lack of a statewide eligibility database, it is difficult to identify the total number of children and families eligible for care or the number of children and families currently waiting for care. Based upon data from the American Institute of Research, the California Child Care Resource Center provides information on the share of children eligible for subsidized child care programs who are currently being served in California. Statewide, approximately 67 to 69 percent of eligible four-year old children are served, while less than 10 percent of eligible children from 0-2 years are currently being served. These figures vary significantly from one county to another. The lack of adequate childcare facilities is one key factor hampering the ability of providers to meet the needs of children and families.

State of ECE facilities infrastructure. According to a 2019 policy brief by the Advancement Project, Building California's Future: Tackling the Facilities Challenge for our Youngest Learners, California has nearly three million children under the age of six, yet the current ECE facilities infrastructure has the capacity to serve less than a quarter of these children. They report that California has 522,462 licensed childcare center seats for children ages two through five, plus 90,707 TK seats, leaving 1,401,331 children ages two through five without an available licensed childcare center or TK seat. The situation is more dire for children under the age of two, as the state only has 47,443 licensed childcare center seats for children ages birth through two, leaving 921,525 babies and toddlers without access. They suggest that 94 percent of infants and toddlers from income-eligible families do not currently have access to subsidized childcare.

The Advancement Project brief states that licensed family child care homes have seats for 283,544 children from birth through twelve and are a critical piece of the facilities puzzle in meeting the needs of children and families. These facilities tend to provide more affordable and flexible care options for families as 41 percent offer evening, weekend, or overnight care.

Research conducted by the Advancement Project further identifies significant geographic disparities in the availability of childcare throughout the state. Further, they note that there are striking racial disparities in access as there is an increase of Asian, Black, Latin, and Native Hawaiian and Pacific Islander children in neighborhoods with the highest need for facilities and access to publicly funded programs.

Challenges to building the necessary ECE infrastructure. There are significant challenges to addressing the ECE infrastructure shortage in California including the following:

- Available land to construct childcare centers or homes to operate family childcare programs may be in short supply in certain areas of the state.

- The cost of constructing facilities designed specifically for young children is relatively high compared to standard commercial space.

- Low reimbursement rates limit the ability of many childcare providers to be able to repay facilities loan funding.

- Land use and regulatory barriers provide challenges to childcare providers, including zoning requirements, permitting approval processes, land use regulations, and the costs of application and permit fees.

- Most childcare providers lack the necessary knowledge of business, finances, local government processes, facility design, as well as development and construction management.

- The difficulty associated with navigating multiple funding sources with different requirements as no single financial source is likely to provide all of the capital needs of a given project, therefore providers may be required to leverage public and private funding sources to cover the cost of development.

Child Care Facilities Revolving Fund (CCFRF) is one current source of funding. In 1997, AB 1578 (Migden) established the CCFRF, which can be used for renovating, repairing, or improving an existing building so that it may be licensed to provide early education and support services; or purchasing new relocatable facilities that school districts and contracting agencies can use for providing early education and support services. Childcare agencies can apply for up to $420,000 for up to three relocatable buildings. Typically, such a building consists of three 12-foot by 40-foot modules or 480 square feet. Loan funds are able to support building costs, architect and inspection fees, site development, and site improvement costs. Loans are interest free and agencies have 10 years for repayment.

When the Fund was first established in 1997, $179 million was appropriated for this purpose. This amount has been reduced over time; by 2013, the allocation for the Fund was under $20 million. However, there was an addition of $20.6 million in 2014 for the California Renovation and Repair Loan program in the Budget Act of 2014, to be used for renovation or repair of existing facilities or new relocatable child care facilities that provided state preschool programs.

According to the CCFRF's 2017-18 Annual Report, "Due to the revolving nature of the CCFRF, the program is continuously replenished by loan repayments received from participating agencies in addition to the annual Budget Act appropriations. Over the past 20 years, the loan repayments have facilitated the CDE commitment of approximately $165.7 million in facilities funding to child care agencies through an application process."

Since its implementation in FY 1997-98, CDE has received 1,177 applications to fund child care facilities projects. CDE currently has 122 executed contracts with participating agencies with the capacity to serve 12,598.

The CCFRF began fiscal year 2017-18 with an available fund balance of $26.8 million, of which $10 million has been earmarked by the Legislature for CSPP facilities. In that year, the CDE only received two new applications for funding. The CDE points to factors contributing to a low level of interest in the program, including low reimbursement rates such that contractors cannot afford to repay a loan, and the lack of available land to place relocatable facilities.

The CCFRF also includes a renovation and repair loan program under which Title 5 providers can apply for no-interest loan funds for renovation, repair, or improvement of existing facilities to ensure compliance with applicable health and safety standards for licensing and ADA compliance. During the 2015-16 and 2017-18 fiscal years the CDE received a total of 20 applications for renovation and repair loans with a total request of $2.4 million. Prior to 2015, CDE notes that there was a much higher utilization of these funds as they were offered in the form of grants rather than loans.

The Early Education Expansion Program offers additional facilities funding. The 2018-19 Budget included $167 million for grants to support one-time infrastructure costs with the goal of increasing access to subsidized inclusive early education programs for children from birth to five. Allowable expenses include adaptive and universal design facility renovations, adaptive equipment, and professional development to support inclusion. The CDE is in the process of reviewing applications for these grants.

Assembly Blue Ribbon Commission on Early Childhood Education (BRC) included recommendations on facilities. 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, including the following, relevant to this bill:

- Map state facilities needs to ensure equity in spending new funds including needs for infants and toddlers, isolated rural areas, and other special populations and match facility needs with available space that can be converted, such as unused schools as well as funding new construction.

- The state should establish a targeted facilities grant program directed to communities and families with greatest need with multi-year investment priorities. The targeted facility grant program should provide appropriate funding and support for all aspects of our mixed delivery system.

- For subsidized child care centers, provide the facility, equipment, and staff recruitment start-up costs necessary to open new classrooms or to convert existing child care spaces to serve different age groups.

- For licensed family child care, provide funds to meet licensing and quality standards to serve subsidized children and those with greatest need. Determine criteria for grants to private businesses based on receipt of public funds and meeting identified needs of targeted communities and families/children.

- Create a fund for friend, family, and neighbor (unlicensed) providers, who wish to be licensed, to pay for licensing fees, zoning processes, and facility alterations.

- Include Head Start in all mapping analysis and provide opportunities to participate in state and locally-funded facility programs including those for one-time grants for building or renovating early childhood facilities.

- Simplify the process to build new facilities and to expand existing facilities including zoning, building codes and permit processes; streamline state and local licensing and other requirements.

- Establish statewide program learning from successful models to share best practices and provide materials, technical assistance on facility planning, development and financing, and facility quality assessment and improvement. Include appropriate services for family childcare home and family friend and neighbor providers.

Support for childcare providers in navigating facility expansion and construction. The Advancement Project brief suggests that the CDE establish an ECE facilities technical assistance office to support providers by providing in-depth technical assistance and regulatory coordination. They recommend the creation of a centralized technical assistance office within the CDE to offer providers support for ECE facility construction, repair, architectural design, permitting, financing, and scaling best practices for ECE facility development for both childcare centers and family childcare homes.

Another option is to utilize an intermediary such as a Community Development Financial Institution (CDFI) to provide financing and technical assistance to childcare centers and family child care homes on facilities development and capacity building. According to the U.S. Department of the Treasury, "Community Development (CD) banks are depository institutions with a stated mission to primarily benefit the underserved communities in which they are chartered to conduct business. A CD bank pursues this specialized mission by providing financial services to low-and moderate-income individuals or communities or benefiting other areas targeted for redevelopment by local, state, tribal, or federal government. CD banks must meet the same safety and soundness, statutory, regulatory, business planning, and procedural requirements as all other national banks."

A CDFI is able to increase access for low income children to high quality licensed childcare centers and family childcare homes by administering facility grants, leveraging innovative financing, program monitoring of public funds, and improving economic stability for ECE providers through intensive training. Funding sources accessible to a CDFI may include federal, state and local facility funds; local development impact fees; commercial debt; and philanthropic contributions.

An example of a CDFI operating in California is the Low Income Investment Fund (LIIF), a national CDFI, with an early education program which provides financing and technical assistance to childcare centers and family childcare homes on facilities development and capacity building. They partner with public agencies, philanthropic organizations, community stakeholders, Quality Rating and Improvement System (QRIS) consortia, and other CDFI's. They provide technical assistance support and program monitoring for public funds in the following ways:

- Pre-project support including upfront technical assistance, training and resources to ensure projects are fully financed and shovel ready.

- Post-project technical assistance to ensure projects are completed and sustainable for the term of the grant and beyond.

- Long term lease or ownership required to ensure ECE services are provided over the entire term of the grant (e.g. three years for family childcare home grants of up to $15,000; five years for renovation and repair grants of up to $100,000 for centers; and up to 30 years for capital grants of up to $1 million for centers).

The financial and technical assistance support provided by intermediaries such as a CDFI protects public funds by ensuring that projects are completed in a timely manner and that the provider has the support and capacity to continue to provide childcare services over time, thus ensuring that pubic funds continue to serve their intended purpose of providing childcare services to eligible children.

Defining "recovering from a disaster". This bill includes a priority for providers "recovering from a disaster". State and federal statute detail several processes for the proclamation or declaration of an emergency. Each proclamation and declaration type provides a different level of disaster assistance from local, state and federal agencies which primarily serve to support cities and counties. For context, the Governor requested and on November 12, 2018, California was granted a Presidential Declaration of a Major Disaster for Butte, Los Angeles and Ventura Counties related to the impacts of the Camp, Hill and Woolsey Fires. For example:

- Presidential Declaration of an Emergency: The Governor, on behalf of the impacted local government, may request this declaration which supports response activities of the federal, state and local government. It also authorizes federal agencies to provide "essential" assistance including debris removal, temporary housing and the distribution of medicine, food and other consumable supplies.

- Presidential Declaration of a Major Disaster: The Governor, on behalf of the impacted local government, may request this declaration which supports response activities of the federal, state and local government. The Presidential Declaration of a Major Disaster goes beyond the Presidential Declaration of an Emergency and authorizes the implementation of some or all federal recovery programs including individual assistance and hazard mitigation. It helps people in the impacted areas through eligibility for support including crisis counseling, housing and unemployment assistance and legal services. It also provides public assistance to help state, tribal and local governments with ongoing emergency response and recovery, including the repair and replacement of disaster-damaged facilities and infrastructure, including roads, bridges and utilities.

Arguments in support. Children NOW states "Recent reports to the legislature have clearly outlined the underutilization of the Child Care Facilities Revolving Fund, at a time when less than three percent of infants and toddlers in California are served in childcare facilities. An extreme shortage of facilities and quality licensed care is detrimental to the health and safety of California's working families as well as an obstacle to economic development. Child Care Facilities Grant Fund grants will be utilized for facilities serving children whose care is subsidized by the state or federal government. Providing sufficient funding in high-need areas will have the most immediate impact on the state's childcare infrastructure that has been neglected for too long."

Recommended amendments. Staff recommends that the bill be amended as follows:

1) Remove reference to "state-subsidized childcare and development programs", and instead define "subsidized childcare and development programs" as those programs that offer a full range of services for children from infancy to 13 years of age, for any part of a day, by a public or private agency, in centers and family child care homes.

2) Define what is meant by recovering from a disaster by referencing federal code regarding Presidential Declaration of an Emergency, or Presidential Declaration of a Major Disaster.

3) Authorize the department to determine the level of grants under this program, within the caps specified, and to consider scope of project, regional costs, and needs to meet licensing requirements, health and safety standards, or other requirements necessary to serve infants and toddlers.

4) Specify that childcare centers may apply for funds for renovation, repair and modernization, as well as new construction.

5) Add language prioritizing facilities that utilize universal design to ensure newly constructed or renovated facilities are able to serve children with special needs in an inclusive environment.

6) Authorize CDE to contract with one or more Community Development Finance Institutions to serve as an intermediary, including the provision of technical assistance and training for providers participating in this program.

7) Require the reports to be provided to the Legislature to be made available to the appropriate policy and fiscal committees of the Legislature.

8) Add a ten year sunset date to allow the Legislature to evaluate the impact of the program, including the degree to which additional childcare facilities were made available, and if any changes should be made prior to reauthorizing the program.

Prior and relevant legislation. AB 123 (McCarty) of this Session, establishes the Pre-K for All Act; expands the eligibility for CSPP; increases the reimbursement rate for the CSPP and requires a portion of the increase to be used to increase teacher pay; requires CSPP lead teachers to hold a bachelor's degree by a specified date; and establishes a program to provide financial support to childcare workers pursuing a bachelor's degree. 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 2398 (Mullin) of the 2017-18 Session would have increased from 10 to 20 years the amount of time after which a CCFRF loan would have to be repaid, and would have clarified that the report the Superintendent is required to submit to the Department of Finance and the Legislative Analyst's Office regarding the Fund and loans must include information regarding loans provided for renovation or repair. AB 2398 was held in the Assembly Human Services Committee.

AB 2302 (Mullin) of the 2013-14 Session would have authorized the term of a loan provided under the CCFRF to be 10 years or a different term as established by regulations. AB 2302 was held in the Assembly Appropriations Committee.

SB 858 (Senate Committee on Budget and Fiscal Review), Chapter 32, Statutes of 2014, established that augmentations to the CCFRF made in the Budget Act of 2014 be used for renovation or repair of existing facilities or new relocatable child care facilities that provide state preschool programs.

AB 932 (Torlakson) of the 2009-10 Session would have expanded the purposes of the CCFRF to authorize funds to be used for purchase, site development, construction, and expansion of licensed child care facilities and would have specified that one of the Fund's purposes is loan administration. AB 932 was held in the Assembly Appropriations Committee.

AB 1578 (Migden), Chapter 299, Statutes of 1997, established the Child Care Facilities Revolving Fund.

REGISTERED SUPPORT / OPPOSITION:

Support

4 Cs
Build Up For San Mateo County's Children
California Coalition For Early Learning
California Head Start Association
Child360
Children And Families Commission of Los Angeles County
Children Now
Chinatown Community Children's Center
Disability Rights California
Early Edge California
Educational Enrichment Systems
EveryChild California
FacesSF
First 5 California
FranDeija Enrichment Center
JVS
Mission Neighborhood Centers, Inc.
Office of The Riverside County Superintendent Of Schools
Peninsula Family Service
Riverside County Public K-12 School District Superintendents
San Francisco Child Care Providers' Association
San Francisco Office of Early Care and Education
Wu Yee Children's Services

Opposition

None on file

Analysis Prepared by: Debbie Look / ED. / (916) 319-2087