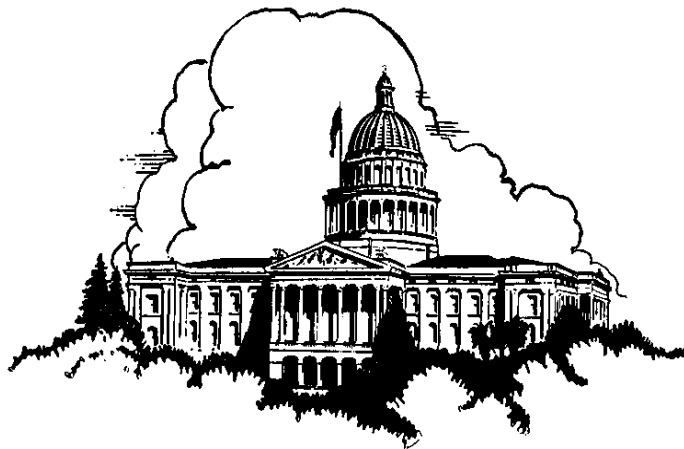


2002 LEGISLATIVE SESSION

IMPACT
OF

*AB 442, AB 3047 AND SB 1630
ON SERVICES FOR PEOPLE WITH
DEVELOPMENTAL DISABILITIES*



INTRODUCTION

During the 2002 Legislative session, provisions of the Welfare and Institutions Code were amended, deleted or added by three pieces of legislation as follows:

- AB 442 (Cardenas) (Chapter 1161) effective January 1, 2002;
- AB 3047 (Aroner)(Chapter 350, Statutes of 2002, effective January 1, 2002)
- SB 1630 (Chesbro) (Chapter 676, Statutes of 2002, effective January 1, 2002)

This document was prepared to identify significant statutory changes that occurred in the 2002 Legislative session, focusing on those changes which affect services to persons with developmental disabilities. This document is not an official legislative publication and does not include any Budget Act language that may impact services. The text is presented in ~~strikeout~~ and underline format. Underlined text is new or revised. ~~Strikeout~~ indicates previous language which is now deleted from the text. Comments in the right-hand column highlight and summarize the impact of the corresponding changes.

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The following is a compilation of the amendments made by:

Assembly Bill 442, Chapter 1161, Statutes of 2002

Assembly Bill 3047, Chapter 350, Statutes of 2002

Senate Bill 1630, Chapter 676, Statutes of 2002

~~4402.~~ As used in Division 5 (commencing with Section 5000) and Division 6 (commencing with Section 5600) of this code, the terms "State Department of Health" and "Department of Health" shall be construed to refer to and mean the State Department of Mental when the reference is to mental disorders, and to refer to and mean the State Department of Developmental Services when the reference is to developmental disabilities.

AB 3047 deleted this section.

~~4403.~~ As used in Division 5 (commencing with Section 5000) and Division 6 (commencing with Section 5600) of this code, the term "Director of Health" shall be construed to refer to and mean Director of Mental Health when the reference is to mental disorders, and to refer to and mean the Director of Developmental Services when the reference is to developmental disabilities.

AB 3047 deleted this section.

4418.2. The department shall support, utilizing regional resources development projects, the activities specified in Sections 4418.25, 4418.3, and 4418.7.

This section was added by AB 442 and requires the department to support various activities including the development of an annual community placement plan and facilitation of easy movement of a consumer from a developmental center to the community.

4418.25. (a) The department shall establish policies and procedures for the development of an annual community placement plan by regional centers. The community placement plan shall be based upon an individual program plan process as referred to in subdivision (a) of Section 4418.3 and shall be linked to the development of the annual state budget. The department's policies shall address statewide priorities, plan requirements, and the statutory roles of regional centers, developmental centers, and regional resource development projects in the process of assessing consumers for community living and in the development of community resources.
(b) The community placement plan shall provide for

This section was added by AB 442 and requires the department to establish policies and procedures for the development of an annual community placement plan by regional centers.

ongoing placement costs. These budget reauests are intended to provide supplemental funding to regional centers. The plan is not intended to limit the department's or regional centers' responsibility to otherwise conduct assessments and individualized program planning, and to provide needed services and supports in the least restrictive, most integrated setting in accord with the Lanterman Developmental Disabilities Services Act (Division 4.5 [commencing with Section 4500]).

(c) The department shall review, negotiate, and approve regional center community placement plans for feasibility and reasonableness, including recognition of each regional centers' current developmental center population and their corresponding placement level, as well as each regional centers' current developmental center population and their corresuonding placement level. as well as each regional centers' need to develop new and innovative service models. The department shall hold regional centers accountable for the development and implementation of their approved plans. The regional centers shall report, as required by the department, on the outcomes of their plans. The department shall make aggregate performance data for each regional center available, upon request, as well as data on admissions to, and placements from, each developmental center.

(d) Funds allocated by the department to a regional center for a community placement plan developed under this section shall be controlled through the regional center contract to ensure that the funds are expended for the purposes allocated. Funds allocated for community placement plans that are not used for that purpose may be transferred to Item 4300-003-0001 for expenditure in the state developmental centers if their population exceeds the budgeted level. Any unspent funds shall revert to the General Fund.

4418.3. (a) It is the intent of the Legislature to ensure that the transition process from a developmental center to a community living arrangement is based upon the individual's needs, developed through the individual program plan process, and ensures that needed services and supports will be in place at the time the individual moves. It is further the intent of the Legislature that regional centers, developmental centers, and regional resource development proiects coordinate with each other for the benefit of their activities in assessment, in the development of individual program plans, and in planning,

This section was amended by AB 442 to expand legislative intent regarding coordination between regional centers, developmental centers, and regional resource development projects for the benefit of consumers.

transition, and deflection, and for the benefit of consumers.

(b) As individuals are identified for possible movement to the community, an individual planning meeting shall be initiated by the developmental center, which shall notify the planning team, pursuant to subdivision (j) of Section 4512, and the regional resource development project of the meeting. The regional resource development project shall make services available to the developmental center and the regional center, including, but not limited to, consultations with the planning teams and the identification of services and supports necessary for the consumer to succeed in community living.

~~(c)~~ The development of the of the individual program plan shall be consistent with Sections 4646 and 4646.5. For the purpose of this section, the planning team shall include developmental center staff knowledgeable about the service and support needs of the consumer.

(d) Regional resource development project services may include providing information in an understandable form to consumers and, where appropriate, their families, conservators, legal guardians, or authorized representatives, that will assist them in making decisions about community living and services and supports. This information may include affording the consumer the opportunity to visit a variety of community living arrangements that could meet his or her needs. If the visits are not feasible, as determined by the planning team, a family member or other representative of the consumer may conduct the visits. Regional resource development projects may be requested to facilitate these visits. The availability of this service shall be made known by the planning team to consumers and, where appropriate, their families, conservators, legal guardians, or authorized representative.

~~(e) As part of the transition process and during the development of the individual program plan, the consumer shall be afforded the opportunity to visit a variety of community living arrangements that could meet his or her needs. If the visits are not feasible, as determined by the planning team, a family member or other representative of the consumer may conduct the visits.~~

~~(e)~~ Once the individual program plan is completed and providers of services and supports are identified and agreed to, pursuant to subdivision (b) of Section 4646.5, and no less than 15 days prior to the move, unless otherwise ordered by a court,

This section was amended by **AB 442** and requires the regional resource developmental projects to make services available to the developmental center and regional center including the identification of services and supports for the consumer to succeed in community placement.

This section was amended by **AB 442** and permits regional resource development project services to make specified information available that will assist in making decisions about community living.

This section was amended by **AB 442** to allow a transition conference to be facilitated by a regional center development

a transition conference, which may be facilitated by a regional resource development project, shall be held. Participants in the transition conference shall include, but not be limited to, the consumer, where appropriate the consumer's parents, legal guardian, conservator, or authorized representative, a regional center representative, a developmental center representative, and a representative of each provider of primary services and supports identified in the individual program plan. This meeting may take place in the catchment area to which the consumer is moving. If necessary, conferees may participate by telephone or video conference. The purpose of this conference shall be to ensure a smooth transition from the developmental center to the community.

(f) The department, through the appropriate regional resource development project, shall provide, in cooperation with regional centers and developmental centers, followup services to help ensure a smooth transition to the community. Followup services shall include, but shall not be limited to, all of the following: (1) Regularly scheduled as well as on an as-needed basis, contacts and visits with consumers and service providers during the 12 months following the consumers movement date. (2) Participation in the development of an individual program plan in accordance with Sections 4646 and 4646.5. (3) Identification of issues that need resolution. (4) Arrangement for the provision of developmental center services, including, but not limited to, medication review, crisis services, and behavioral consultation.

(ge) To ascertain that the individual program plan is being implemented, that planned services are being provided, and that the consumer and, where appropriate the consumer's parents, legal guardian, or conservator, are satisfied with the community living arrangement, the regional center shall schedule face-to-face reviews no less than once every 30 days for the first 90 days. Following the first 90 days, and following notification to the department, the regional center may conduct these reviews less often as specified in the individual program plan.

(h) The regional center and the regional resource development project shall coordinate their followup reviews required pursuant to subdivisions (f) and (g) and shall share with each other information obtained during the course of the followup visits.

project.

This section was amended by AB 442 and requires that followup services be provided to help ensure a smooth transition to the community.

This section was amended by AB 442 and requires the regional center and the regional resource development project to coordinate reviews of community living

arrangements.

4418.7. (a) If the regional center determines, or is informed by the consumer's parents, legal guardian, ~~or~~ conservator, or authorized representative that the community placement of a consumer is at risk of failing, and that admittance to a state developmental center is a likelihood, the regional center shall immediately notify the appropriate regional resource development project department, the consumer, and the consumer's parents, legal guardian, or conservator.

This section was amended by **AB 442** and requires the regional resource development project to immediately arrange for an assessment in any situation in which the community placement is at risk of failing.

(b) In these cases, the regional resource development project department shall immediately arrange for an assessment of the situation including visiting the consumer, if appropriate, determining barriers to successful integration and recommending the most appropriate means necessary to assist the consumer to remain in the community. If, based on the assessment, the regional resource development project department determines that additional or different services and supports are necessary, the department shall ensure that the regional center provides those services and supports on an emergency basis. An individual program plan meeting, including the regional resource development project's department's representative, shall be convened ~~as~~ soon as possible to review the emergency services and supports and determine the consumer's ongoing needs for services and supports. The regional resource development project shall follow up with the regional center as to the success of the recommended interventions until the consumer's living arrangement is stable.

(c) If the regional resource development project department, in consultation with the regional center, the consumer, and the consumer's parents, legal guardian, or conservator, when appropriate, determines that admittance to a state developmental center is necessary to prevent a substantial risk to the individual's health and safety, the regional resource development project shall immediately facilitate that admission. ~~protect the health and welfare of the consumer, the department shall immediately seek that admission.~~

(d) The department shall collect data on the outcomes of efforts to assist at-risk consumers to remain in the community. The department shall make aggregate data on the implementation of the requirements of this section available, upon request.

This section was amended by **AB 442** and requires the department to collect data on outcome efforts to assist

consumers to remain in the community.

4433.5. Notwithstanding Section 4433, the department may contract with the State Council on Developmental Disabilities ~~Organization of Area Boards~~ for the purpose of utilizing area boards to provide ~~providing~~ clients' rights advocacy services to individuals with developmental disabilities who reside in developmental centers and state hospitals. It is the intent of the Legislature that area boards maintain local discretion in the provision of these advocacy services. The state council shall not direct the advocacy services provided by area boards pursuant to this contract, except when necessary to ensure compliance with the contracts.

This section was amended by SB 1630 and specifies that area boards are to maintain local discretion in the provision of advocacy services.

4474.1. (a) Whenever the State Department of Developmental Services proposes the closure of a state developmental center, the department shall be required to submit a detailed plan to the Legislature not later than April 1 immediately prior to the fiscal year in which the plan is to be implemented, and as a part of the Governor's proposed budget. No plan submitted to the Legislature pursuant to this section, including any modifications made pursuant to subdivision (b), shall be implemented without the approval of the Legislature.

This section was amended by SB 1630 and omits the Organization of Area Boards from the entities submitting input to the Department regarding the closure of a developmental center.

(b) A plan submitted on or before April 1 immediately prior to the fiscal year in which the plan is to be implemented may be subsequently modified during the legislative review process.

(c) Prior to submission of the plan to the Legislature, the department shall solicit input from the State Council on Developmental Disabilities, ~~the Organization of Area Boards;~~ the Association of Regional Center Agencies, the protection and advocacy agency specified in Section 4901, the local area board on developmental disabilities, the local regional center, consumers living in the developmental center parents, family members, guardians, and conservators of persons living in the developmental centers or their representative organizations, persons with developmental disabilities living in the community, developmental center employees and employee organizations, community care providers, the affected city and county governments, and business and civic organizations, ~~as~~ may be recommended by local state Senate and Assembly representatives.

(d) Prior to the submission of the plan to the Legislature, the department shall confer with the county in which the developmental center is located, the regional centers served by the developmental center, and other state departments using similar occupational classifications, to develop a program for the placement of staff of the developmental center planned for closure in other developmental centers, as positions become vacant, or in similar positions in programs operated by, or through contract with, the county, regional centers, or other state departments.

(e) Prior to the submission of the plan to the Legislature, the department shall hold at least one public hearing in the community in which the developmental center is located, with public comment from that hearing summarized in the plan.

(f) The plan submitted to the Legislature pursuant to this section shall include all of the following: (1) A description of the land and buildings affected. (2) A description of existing lease arrangements at the developmental center. (3) The impact on residents and their families. (4) Anticipated alternative placements for residents. (5) The impact on regional center services. (6) Where services will be obtained which, upon closure of the developmental center, will no longer be provided by that facility. (7) Potential job opportunities for developmental center employees and other efforts made to mitigate the effect of the closure on employees. (8) The fiscal impact of the closure. (9) The time frame in which closure will be accomplished.

4503. Each person with developmental disabilities who has been admitted or committed to a state hospital, community care facility as defined in Section 1502 of the Health and Safety Code, or a health facility as defined in Section 1250 of the Health and Safety Code shall have the following rights, a list of which shall be prominently posted in English, Spanish and other appropriate languages, in all facilities providing ~~such~~ those services and otherwise brought to his or her attention by such any additional means as the Director of Developmental Services may designate by regulation: (a) To wear his or her own clothes, to keep and use his or her own personal possessions including his or her toilet articles, and to keep and be allowed to spend a reasonable sum of his or her own money for canteen expenses and small purchases. (b) To have access to individual storage

This section was amended by AB 3047 and makes technical amendments.

space for his or her private use. (c) To see visitors each day. (d) To have reasonable access to telephones, both to make and receive confidential calls. (e) To have ready access to letter writing materials, including stamps, and to mail and receive unopened correspondence. (f) To refuse electroconvulsive therapy.

(g) To refuse behavior modification techniques which cause pain or trauma. (h) To refuse psychosurgery notwithstanding the provisions of Section 5325, 5326, and 5326.3. Psychosurgery means those operations currently referred to as lobotomy, psychiatric surgery, and behavioral surgery and all other forms of brain surgery if the surgery is performed for any of the following purposes: (1) Modification or control of thoughts, feelings, actions, or behavior rather than the treatment of a known and diagnosed physical disease of the brain.

(2) Modification of normal brain function or normal brain tissue in order to control thoughts, feelings, action, or behavior.

(3) Treatment of abnormal brain function or abnormal brain tissue in order to modify thoughts, feelings, actions, or behavior when the abnormality is not an established cause for those thoughts, feelings, action, or behavior. (i) To make choices in areas including, but not limited to, his or her daily living routines, choice of companions, leisure and social activities, and program planning and implementation. (j) Other rights, as specified by regulation.

4520. (a) The Legislature finds that services for persons with developmental disabilities constitute a major expenditure of public funds, that these programs are provided by hundreds of public and private statewide and local agencies, that the legal, civil, and service rights of persons with developmental disabilities are frequently denied, and that there is no effective method for planning and coordinating the state's resources to assure these rights. Therefore, a State Council on Developmental Disabilities with authority independent of any single state service agency is needed and is hereby created.

(b) The Legislature further finds that the state faces unique challenges because of its size and diversity, and neighborhoods and communities lack the support necessary to monitor system functions and ensure the legal, civil, and service rights of persons with developmental disabilities. Therefore, local area boards on developmental disabilities shall be established to

This section was amended by SB 1630 and establishes local area boards on developmental disabilities for the purpose of conducting local activities required by the federal disabilities act of 2000.

conduct the local advocacy, capacity building, and systemic change activities required by the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000 (Public Law 106-402(42 U.S.C. Sec. 15001).

~~(c)~~ This chapter, Chapter 3~~2~~ (commencing with Section 4560 4520), and Chapter 43 (commencing with Section 45704560), and Chapter 4 (commencing with Section 4570), and Division 4.7 (commencing with Section 4900), are intended by the Legislature to secure full compliance with the requirements of the Developmental Disabilities Assistance and Bill of Rights Act of 20001975 (Public Law 106-40294-103), as amended and extended, which provides federal funds to assist the state in planning, coordinating, monitoring, and evaluating services for persons with developmental disabilities and in establishing a system to protect and advocate the legal and civil rights of persons with developmental disabilities.

This section was amended by SB 1630 and makes technical amendments.

4521. (a) All references to "state council" in this part shall be a reference to the State Council on Developmental Disabilities.

(b) There shall be 2919 voting members on the state council appointed by the Governor, as follows:

(1) One member from each of the 13 area boards on developmental disabilities described in Article 6 (commencing with Section 4543), nominated by the area board to serve as a council member, who shall be persons with a developmental disability, as defined in Section 15002(8) of Title 42 of the United States Code, or parents, siblings, guardians or conservators of these persons residing in California. Five of these members shall be persons with a developmental disability, as defined in Section 15002(8) of Title 42 of the United States Code, three shall be parents, siblings, guardians, or conservators of persons with developmental disabilities, and five shall be either a person with a developmental disability or a parent, sibling, guardian, or conservator of a person with a developmental disability. The nominee from each area board shall be an area board member who was appointed by the Governor.

~~(a) Ten members of the council appointed by the Governor shall be persons with a developmental disability, as defined in 42 U.S.C. Sec. 6001(7), or parents, siblings, guardians or conservators of these persons residing in California and who are~~

This section was amended by SB 1630 and restructures the membership of the state council.

~~not employees of a state, local, or private agency or facility which receives funds from the rehabilitation, comprehensive services, and developmental disabilities legislation, as amended, or provides services to the developmentally disabled. Four of these members shall be persons with a developmental disability, and three shall be parents, siblings, guardians, or conservators of persons with mentally impairing developmental disabilities.~~

~~(2b) Ten Nine members of the council appointed by the Governor shall include the following: (A1) The Secretary of the California Health and Human Services Agency ~~Health and Welfare Agency~~, or his or her designee, who shall represent the agency and the state agency that administers funds under Title XIX of the Social Security Act for people with developmental disabilities. (B2) The Director of Developmental Services or his or her chief deputy. (C3) The Director of Rehabilitation or his or her chief deputy. (D4) The Superintendent of Public Instruction or his or her designee.~~

~~(E5) A representative from a nongovernmental agency or group concerned with the provision of services to persons with developmental disabilities. (F) One representative from each of the two university centers for excellence in the state, pursuant to 42 U.S.C. Section 15061 et seq., providing training in the field of developmental services. These individuals shall have expertise in the field of developmental disabilities. (G) The Director of Health Services or his or her chief deputy.~~

~~(6) A representative of a higher education training facility providing training in the field of developmental services. That individual shall have expertise in the field of developmental disabilities, and shall also represent all university-affiliated facilities and satellite centers in the state established pursuant to 42 U.S.C. Sec. 6000 et seq. (7) The Chairperson of the Organization of Area Boards.~~

~~(H8) A member of the board of directors of the agency established in California to fulfill the requirements and assurance of Section 142 of the Developmental Disabilities Act of 1984 for a system to protect and advocate the rights of persons with developmental disabilities. (I9) The Director of Aging or his or her chief deputy.~~

~~(3) Six members at large, appointed by the Governor, as follows:~~

~~(A) Two shall be persons with developmental disabilities, as defined in Section 15002(8) of Title 42 of the United States~~

Code.

(B) One shall be a person who is a parent, sibling, guardian, or conservator of a person with a developmental disability living in the community.

(D) One shall be a person who is a parent, sibling, guardian, or conservator of a person with a developmental disability living in the community, nominated by the Speaker of the Assembly.

(E) One shall be a person with developmental disabilities, as defined in Section 15002(8) of Title 42 of the United States Code, nominated by the Senate Rules Committee.

~~(c) Prior to appointing the 10 members, pursuant to subdivision (a), the Governor shall receive two nominations from the Senate Rules Committee and two nominations from the Speaker of the Assembly. These nominations shall be as follows: (1) One nomination each shall be a person with a developmental disability as defined in 42 U.S.C. Sec. 6001(7). (2) One nomination each shall be a parent, sibling, guardian, or conservator of a person with a developmental disability as defined in 42 U.S.C. Sec. 6001(7). (3) Of the remaining six members, appointed by the Governor, at least two shall be a person with a developmental disability as defined in 42 U.S.C. 6001(7); at least one shall be a person who is a parent, sibling, guardian, or conservator of a person with a developmental disability; at least one shall be a person who is an immediate relative, guardian, or conservator of a resident of a state hospital or developmental center; and at least one shall be a person who is an immediate relative, guardian, or conservator of a developmentally disabled person living in the community and one person may be selected from any of the categories specified in this paragraph.~~

~~(cd) Prior to appointing the 2910 members, pursuant to this section subdivision (a), the Governor shall request and consider recommendations from organizations representing or providing services to, or both, to persons with developmental disabilities, who are developmentally disabled and shall take into account socioeconomic, ethnic, and geographic considerations of the state.~~

~~(de) The term of each member described in subdivision (ba) shall be for three years; provided, however, of the members first appointed by the Governor pursuant to paragraph (1) of subdivision (b), five ~~three~~ shall hold office for three years, four ~~three~~ shall hold office for two years, and four ~~three~~ shall hold~~

office for one year. In no event shall any member described in subdivision (ba) serve for more than a total of six years of service. Service by any individual on any state council on developmental disabilities existing on and after January 1, 2003, March 4, 1972, including membership on the State Developmental Disabilities Planning and Advisory Council under former Section 38200 of the Health and Safety Code (Ch. 908, Stats. 1971), shall be included in determining the total length of service.

(e) Members appointed to the state council prior to June 1, 2002, shall continue to serve until the term to which they were appointed expires. Members appointed on June 1, 2002, or thereafter shall have their terms expire on January 1, 2003.

(f) Notwithstanding 1) Section 4546, members described in subdivision (b) shall continue to serve on the area board following: the expiration of their term on the area board until their term on the state council has expired.

(g) A member may continue to serve following: the expiration of his or her term until the Governor appoints that member's successor. The state council shall notify the Governor regarding membership requirements of the council and shall notify the Governor at least 60 days before a member's term expires, and when a vacancy on the council remains unfilled for more than 60 days.

~~(f) Nothing in this chapter shall prevent the reappointment or replacement of any individual presently serving on the existing state council if the reappointment is in conformity with all of the criteria established in this chapter.~~

4521.5. Notwithstanding Section 7.5 of the Government Code, for purposes of this chapter, the Secretary of Health and Human Services Welfare, the Director of Developmental Services, the Director of Rehabilitation, and the Director of the California Department of Aging may designate his or her chief deputy of his or her department or agency to act as the member in his or her place and stead to all intents and purposes **as** though the director or secretary were personally present, including the right of the chief deputy to be counted in constituting a quorum to participate in the proceeding of the state council and to vote upon any and all matters.

Each chief deputy so designated shall have the right to represent

This section was amended by SB 1630 and establishes expiration dates for the terms served by the members on the state council.

This section was amended by **SB 1630** and makes technical amendments.

the director or secretary who appointed him or her regardless of the number of other deputies designated to represent directors or secretaries at a particular meeting or session of the state council. Each chief deputy shall represent only one director or secretary at any meeting or session of the state council.

4521.6. For purposes of this chapter, the Governor's appointment of the Secretary of Health and Human Services, the Director of the California Department of Aging, Director of Developmental Services, Director of Health Services, and Director of the Department of Rehabilitation shall also constitute his or her appointment as a member of the State Council on Developmental Disabilities.

This section was added by **SB 1630** and appoints staff to the state council

4522. Nothing in this chapter shall prevent the reappointment or replacement of any individual presently serving on the existing state council if such reappointment or replacement is in conformity with all of the criteria established in this chapter. ~~Any individual presently serving on the existing state council may continue to serve beyond March 1, 1977, until a replacement is appointed, or 60 days, whichever comes first.~~

This section was amended by **SB 1630** and deletes an obsolete date.

4523. Persons appointed to membership on the state council shall have demonstrated interest and leadership in human service activities, including interest in Californians who have developmental disabilities, their families, services, and supports.

This section was amended by **SB 1630** and requires that persons appointed to membership on the state council have an interest in Californians who have developmental disabilities.

4525. In order to prevent any potential conflicts of interest, members of the state council ~~may shall~~ not be ~~employed as providers of employees of a state, local, or private agency or facility that provides~~ services to persons with a developmental disability, or be members of the governing board of any entity providing the service, when the service is funded in whole or in part with state funds. For purposes of this section, "~~employed as providers of~~ employees of a state, local, or private agency or

This section was amended by **SB 1630** and specifies who shall not be members of the state council in order to avoid conflict of interest.

facility that provides services to persons with a developmental disability" shall not be deemed to include any of the following: (1) a parent, relative, guardian or conservator, who receives public funds expressly for the purpose of providing direct services to his or her child, relative, ward or conservatee, respectively, who is a person with a developmental disability. (2) A person with a developmental disability who receives employment services through a provider receiving state or federal funds. (3) A person who serves as a member of an area board. (c) This section shall not apply to the appointments made pursuant to ~~¶graphs (1), (2), (3), (4) and (6)~~ (A), (B), (C), (D), (F), (G), (H), and (I) of paragraph (2) of subdivision (b) of Section 4521.

4530. For administrative purposes only, the state council shall be attached to the California Health and Human Services Agency ~~Health and Welfare Agency~~. The agency secretary shall ensure the state council is provided efficient accounting, financial management, personnel, and other reasonable support services when requested by the council in the performance of its mandated responsibilities. The attachment of the state council to the California Health and Human Services Agency ~~Health and Welfare Agency~~ shall not limit the council's scope of concern to health programs or limit the council's responsibilities or functions regarding all other pertinent state and local programs, as defined in Article 5 (commencing with Section 4540) of this chapter. The administrative attachment of the state council to the California Health and Human Services Agency ~~Health and Welfare Agency~~ shall not be construed to interfere in any way with the provisions of Section 4552 requiring all personnel employed by the council to be solely responsible, organizationally and administratively, to the council.

This section was amended by SB 1630 and updates the Agency name.

4535. (a) The state council shall meet at least six times each year, and, on call of its chairperson, as often as necessary to fulfill its duties. All meetings and records of the state council shall be open to the public. (b) The state council shall, by majority vote of the voting members, elect its own chairperson and vice chairperson who shall have full voting rights on all state council actions, from among the ~~10~~ appointed members described in ~~subdivision (a)~~ paragraph (1), (3), or (4) of subdivision (b) of Section 4521, and shall establish any

This section was amended by SB 1630 and designates that chairs and vice chairs of the state council and its standing committees be a developmentally disabled individual or the parent, sibling, guardian or conservator of a

committees it deems necessary or desirable. The chairperson shall appoint all members of committees of the state council. The chairs and vice chairs of the state council and its standing committees shall be individuals with a developmental disability, or the parent, sibling, guardian, or conservator of an individual with a development disability. (c) The state council may appoint technical advisory consultants and may establish committees composed of professional persons serving persons with developmental disabilities as necessary for technical assistance. The state council may call upon representatives of all agencies receiving state or federal funds for assistance and information, and ~~shall may~~ invite persons with developmental disabilities, their parents, ~~or~~ guardians, or conservators, professionals, or members of the general public to participate on state council committees; when appropriate.

developmentally disabled individual and to also make technical amendments.

4540. In order to comply with the intent and requirements of this division and Public Law 106-402 (42 U.S.C. Sec. 15001 et seq.) ~~and the rehabilitation, comprehensive services and developmental disabilities legislation, as amended,~~ the state council, in addition to any other responsibilities established under this division and to the extent that resources are available, shall do all of the following:

This section was amended by **SB 1630** and requires the state council to conduct activities related to meeting the objectives of the state plan and specifies the types of activities and also makes technical amendments.

(a) ~~Be the~~ Serve as the "state planning council" responsible for developing the "California Developmental Disabilities State Plan" in accordance with requirements issued by the Secretary of Health and Human Services, monitoring and evaluating the implementation of this plan, reviewing and commenting on other plans and programs in the state affecting persons with developmental disabilities, and submitting these reports as the United States Secretary of Health and ~~Human~~ Services may reasonably request.

(b) ~~Be~~ Serve as the official agency responsible for planning the provision of the federal funds allotted to the state under Public Law ~~106-402~~ 94-103, as amended (42 U.S.C. Sec. 15001 ~~6000~~ et seq.), ~~which shall~~ and apportion these funds among agencies and area developmental disabilities boards in compliance with applicable state and federal law. ~~Sections 4550, 4611, and 4677.~~

(c) Prepare and approve a budget, for the use of amounts paid to the state to hire ~~such any~~ staff and to obtain the services of ~~such~~ any professional, technical, or clerical personnel consistent with

state and federal law, as the council determines to be necessary to carry out its functions. ~~In the operation of this budget, the council shall consult with the area boards, through the Organization of Area Boards, regarding the appropriation of funds to all area boards pursuant to subdivision (b).~~

(d) (1) Conduct activities related to meeting the objectives of the state plan. To the extent that resources are available, these activities shall include all of the following: (A) Through support of the area boards, engaging in geographically based outreach and individual and systemic advocacy to assist and enable individuals and families to obtain services, supports, and other forms of assistance. (B) Support and conduct technical assistance activities to assist public and private entities to contribute to the objectives of the state plan. (C) Support and conduct activities to promote interagency collaboration and coordination at the state and local levels. (D) Support and conduct activities to educate the public about the capabilities, preferences, and needs of individuals with developmental disabilities and their families, and to develop and support coalitions that support the policy agenda of the council, including training in self-advocacy, education of policymakers, and citizen leadership roles. (E) Support and conduct activities to provide information to policymakers. (2) These activities may also include, but shall not be limited to, all of the following: (A) Support and conduct training; for persons with developmental disabilities, their families, and personnel, to enable these individuals to obtain access to, or to provide, community services, individualized supports, and other forms of assistance. (B) Support and conduct activities to assist neighborhoods and communities to respond positively to individuals with disabilities and their families. (C) Support and conduct activities to eliminate barriers to access and use of community services by individuals with developmental disabilities, enhance system design and redesign, and enhance citizen participation. (D) Support and conduct, on a time-limited basis, activities to demonstrate new approaches to serving individuals with developmental disabilities that are a part of an overall strategy for systemic change. (e) Conduct other activities, including, but not limited to, public hearings and forums and the evaluation and issuance of public reports on the programs identified in the state plan, as may be necessary to carry out the duties of the state council. Evaluate and issue

~~public reports on the programs identified in the state plan.~~

(~~f~~e) Review and comment on pertinent portions of the proposed plans and budgets of all state agencies serving persons with developmental disabilities to include, but not be limited to, the State Department of Education, the Department of Rehabilitation, and the State Department of Developmental Services. This review may include public hearings prior to the submission of the Governor's Budget to the Legislature, with advice directed to the Governor, and after introduction of the Governor's Budget, with advice directed to the Legislature.

(~~g~~f) Prepare an annual written report of its activities, its recommendations, and an evaluation of the efficiency of the administration of the provisions of this division of the ~~Welfare and Institutions Code~~ to the Governor and the Legislature.

(~~h~~g) Review and publicly comment on significant regulations proposed to be promulgated by any state agency in the implementation of the provisions of this division.

(~~i~~h) Monitor the execution of this division and report directly to the Governor and the Legislature any delay in the rapid execution of this division.

(~~j~~i) Be responsible for monitoring and evaluating the effectiveness of appeals procedures established in this division.

(~~k~~j) Provide testimony to legislative committees reviewing fiscal or policy matters pertaining to persons with developmental disabilities.

(~~l~~k) Conduct, or cause to be conducted, investigations or public hearings to resolve disagreements between state agencies, or between state and regional or local agencies, or between persons with developmental disabilities and agencies receiving state funds. These investigations or public hearings shall be conducted at the discretion of the state council only after all other appropriate administrative procedures for appeal, as established in state and federal law, have been fully utilized. Except ~~as~~ otherwise provided in this division, the state council shall not engage in the administration of the day-to-day operation of service programs identified in the state plan, nor in the financial management and accounting of funds. These activities shall be performed by appropriate agencies designated in the state plan.

(~~m~~) To the greatest extent possible area boards shall participate in conducting the activities described in the state plan.

~~4542. When convening any task force or advisory group, the state council shall make its best effort to ensure representation by consumers and family members representing California's multicultural diversity.~~

This section was repealed by SB 1630.

4543. (a) Because of the vast size, complexity, and diversity of the State of California, the Legislature finds that the planning activities of the State Council on Developmental Disabilities depend upon the direct involvement of local representatives familiar with the structure and operation of services and programs for persons with developmental disabilities. The Legislature further finds that the legal, civil, and service rights of persons with developmental disabilities cannot be adequately guaranteed throughout the state, and the state plan cannot be implemented, unless monitoring responsibility is established on a regional basis through area boards on developmental disabilities. (b) For administrative purposes and to ensure compliance with federal and state laws, the area boards shall be attached to the state council.

This section was added by SB 1630 and merges the area boards and the state council into one entity.

4544. The area boards in existence as of January 1, 2003, shall continue to exist, with the same geographic regions of the state after January 1, 2002, but shall thereafter be constituted and shall operate according to this article.

This section was amended by SB 1630 and requires the area boards to be constituted and to operate under Article 6.

4545. The State Council on Developmental Disabilities shall periodically conduct a thorough review of the geographic boundaries served by area boards to determine whether existing; area board boundaries should be changed, or additional area boards should be established to more effectively implement this division. In conducting this review, the state council shall seek input from area boards, persons with developmental disabilities, family members, service providers, advocates, and other interested parties. Prior to recommending the establishment of new geographic boundaries, the state council shall hold a public hearing within any existing area board geographic area affected by the proposed change. The state council shall submit to the Governor and the Legislature any recommendations for changes in area board boundaries or recommendations that additional area boards be established. Any area board established after January 1, 2003, shall nominate a member to be appointed by the Governor as a voting member of the state council pursuant to

This section was amended by SB 1630 and requires the state council to conduct periodic reviews of boundary areas for the purposes of determining boundary changes or the addition of area boards.

Section 4521.

4546. After January 1, 2003, area boards shall be comprised as follows:

(a) For areas consisting of one to four counties, the area board shall consist of a total of 12 voting members appointed by the governing bodies of the counties, each county appointing an equal number of voting members, and five voting members appointed by the Governor.

(b) For areas consisting of five to seven counties, the area board shall consist of two voting members appointed by the governing body of each county, and five voting members appointed by the Governor.

(c) For areas consisting of eight or more counties, the area board shall consist of one voting member appointed by the governing body of each county, and five members appointed by the Governor.

Of the members first appointed, five shall serve for one year, five shall serve for two years, and the remaining members shall serve for three years. Subsequent members shall serve for three years. In counties with a population of more than 100,000, no member shall serve more than two consecutive three-year terms.

(d) The governing bodies of the counties in each area shall select their appointees from among the following groups, and, to the extent feasible, in the following proportions:

(1) Sixty percent from persons with developmental disabilities or the immediate relatives, guardians, or conservators of these persons.

(2) Forty percent from representatives of the general public.

(e) The appointments made by the Governor shall meet the requirements of paragraph (1) of subdivision (b) of Section 4521.

(f)(1) Prior to making their appointments, the Governor and the governing bodies of counties shall request recommendations from professional organizations, from organizations within the area representing persons with developmental disabilities, and from organizations and agencies within the area that deliver services to these individuals.

J2) In making their appointments, the Governor and the governing bodies of counties shall appoint persons who have demonstrated interest and leadership in human service activities.

(g)(1) In order to prevent any potential conflicts of interest,

This section was amended by **SB 1630** and specifies the requirements, terms of office, qualifications, and structure of area boards' membership.

voting members of area boards shall not be employees of a state, local, or private agency or facility that provides service to a person with a developmental disability, or be members of the governing board of any entity providing this service, when the service is funded in whole or in part with state funds.

(2) For purposes of this section "employees of a state, local, or private agency or facility that provides services to a person with a developmental disability" shall not be deemed to include any of the following:

(A) A parent, relative, guardian, or conservator who receives public funds expressly for the purpose of providing direct services to his or her child, relative, ward, or conservatee, respectively, who is a person with a developmental disability.

(B) A person with a developmental disability who receives employment services through a provide receiving state or federal funds.

(C) A person who services as a member of the state council.

(h) The Governor shall give consideration to the relative populations of the counties within the area in selecting; appointees to the area boards.

(i) A member may continue to serve following the expiration of his or her term until the Governor or appointing body of the county appoints that member's successor. The state council shall notify the Governor or the appointing body of the county regarding membership requirements of the area boards and shall notify the Governor or the appointing body of the county at least 60 days before a member's term expires, and when a vacancy on an area board remains unfilled for more than 60 days.

(j) All members of the area board shall be residents of the area.

(k) The members of an area board shall serve without compensation but shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties as members of the board of committees established by the board.

4547. (a) Each area board shall meet at least quarterly, and on call of the board chairperson, as often as necessary to fulfill its duties. All meetings and records of the area board shall be open to the public.

(b)(1) Each area board shall, by majority vote of the voting members, elect its own chairperson from among the appointed members who are persons with developmental disabilities, or

This section was amended by **SB 1630** and requires each area board to meet quarterly and requires all meetings and records to be open to the public.

immediate relatives, guardians, or conservators of these persons, and shall establish any committees it deems necessary or desirable. The board chairperson shall appoint all members of committees of the area board.

J2) An area board may call upon representatives of all agencies receiving state funds, for assistance and information, and shall invite persons with developmental disabilities, their immediate relatives, guardians, or conservators, professionals, or members of the general public to participate on area board committees.

(3) When convening any task force or advisory group, the area board shall make its best effort to ensure representation by consumers and family members representing the community's multicultural diversity.

4548. (a) Area boards shall locally assist the state council with the implementation of subtitles A and B of Title I of Public Law 106-402 (42 U.S.C. Sec. 15001 et seq).

(b) Area boards shall protect and advocate the rights of all persons in the area with developmental disabilities.

(c) Area boards shall conduct capacity building activities and provide advocacy for systemic change.

(d)(1) The area board shall have the authority to pursue legal, administrative, and other appropriate remedies to ensure the protection of the legal, civil, and service rights of persons who require services or who are receiving services in the area. In carrying out this responsibility, area boards may appoint a representative to assist the person in expressing his or her desires and in making decisions and advocating his or her needs, preferences, and choices, where the person with developmental disabilities has no parent, guardian, or conservator legally authorized to represent him or her and the person has either requested the appointment of a representative or the rights or interests of the person, as determined by the area board, will not be properly protected or advocated without the appointment of a representative.

(2) Where there is no guardian or conservator, the person's choice if expressed, including the right to reject the assistance of a representative, shall be honored. If the person does not express a preference, the order of preference for selection of the representative shall be the person's parent, involved family member, or a volunteer selected by the area board. In establishing these preferences, it is the intent of the Legislature

This section was amended by **SB 1630** and specifies the area board responsibilities necessary to ensure the legal, civil, and service rights of developmentally disabled persons are protected.

that parents or involved family members shall not be required to be appointed guardian or conservator in order to be selected. Unless the consumer expresses otherwise, or good cause otherwise exists, the request of the parents or involved family members to be appointed the representative shall be honored.

(3) Where appropriate pursuant to this section, the area board shall appoint a representative to advocate the rights and protect the interests of a person residing in a developmental center for whom community placement is proposed pursuant to Section 4803.

(4) The area board shall identify any evidence of the denial of these rights, shall inform the appropriate local, state, or federal officials of their findings, and shall assist these officials in eliminating all forms of discrimination against persons with developmental disabilities in housing, recreation, education, health and mental health care, employment, and other service programs available to the general population.

(e) Area boards shall conduct, or cause to be conducted, public information programs for consumers, families, professional groups, and for the general public, to increase professional and public awareness of prevention and habilitation programs, and to eliminate barriers to social integration, employment, and participation of persons with developmental disabilities in all community activities.

(f) Area boards shall encourage and assist in the establishment or strengthening of self-advocacy organizations led by individuals with developmental disabilities.

(g) (1) To the extent that resources are available, area boards shall review the policies and practices of publicly funded agencies that serve or may serve persons with developmental disabilities, to determine if the programs are meeting their obligations under local, state, and federal laws. A regional center may notify the area board when the regional center believes a publicly funded program is failing to meet its obligations in serving persons with . The regional center may provide the area board with a comprehensive summary of the issues and the statute or regulation alleged to be violated. If the area board finds that the agency is not meeting its obligations, the area board shall inform the director and the managing board of the noncomplying agency, in writing, of its findings.

(2) Within 15 days, the agency shall respond, in writing, to the area board's findings. Following receipt of the agency's

response. if the area board continues to find that the agency is not meeting its obligations. the area board shall pursue informal efforts to resolve the issue.

(3) If. within 30 days of implementing informal efforts to resolve the issue. the area board continues to find that the agency is not meeting; its obligations under local. state, or federal statutes, the area board shall conduct a public hearing to receive testimony on its findings.

(4) If the problem has not been resolved within 30 days following the public hearing;. the area board may provide the state council with its findings and may request authorization to initiate legal action. An area board shall not initiate legal action without prior authorization from the state council. However, the area board may assist any other person, agency, or organization that may pursue litigation related to the area board's findings.

(5) The executive director of the state council shall review the findings developed pursuant to this subdivision and may conduct additional fact finding investigations. The executive director shall report his or her findings to the state council within 30 days and shall recommend a course of action to be pursued by the council, the area board, or other state administrative or legislative officials.

(6) The state council shall review the report of the executive director and shall take any action it deems necessary to resolve the problem. If the state council authorizes the area board to initiate legal action, the state council shall make legal assistance available to the area board pursuant to the legal services provisions of Public Law 106-402 (42 U.S.C. Sec. 15001 et seq.).

(h) Area boards shall encourage the development of needed services and supports of good quality that do not result in duplication, fragmentation of services, and unnecessary expenditures. Prior to providing additional funds for major expansion of existing programs, creation of new programs, or establishment of pilot projects to test new methodologies of service delivery for persons with developmental disabilities within an area board catchment area, the department or regional center, as appropriate, shall consult with the area board regarding the appropriateness of those program developments.

(i) In carrying out their review functions, area boards shall solicit the advice of knowledgeable professionals, consumers, and consumer representatives about problems within the service

delivery system in the region. In enacting this article, it is the intent of the Legislature that the area boards not duplicate the functions assigned to other agencies that are routinely responsible for monitoring, regulating, or licensing programs for persons with developmental disabilities. Area boards may call upon these agencies for information and assistance in order to carry out their responsibilities more effectively. Unless otherwise prohibited by law, these agencies shall provide information requested by the area boards, and shall cooperate fully in complying with all reasonable requests for assistance.

(j) (1) Area boards shall remain informed about the quality of services in the area, and shall inform appropriate state and local licensing agencies of alleged fire, safety, health, or other violations of legally established standards, in any facility providing service to persons with developmental disabilities, that may be brought to the attention of the area board.

(2) If an area board receives evidence of criminal misconduct by an individual or agency funded in whole or in part with state funds under this division, the area board shall immediately inform appropriate public safety agencies about the alleged misconduct.

(k) (1) Area boards shall cooperate with county coordinating councils on developmental disabilities, other regional planning bodies and consumer organizations in the area. Area boards shall comply with the reasonable requests of these groups and may request the assistance of the groups in carrying out area board responsibilities.

(2) The governing body of any county within the area may request that the area board study or investigate programs in the county for persons with developmental disabilities. The area board shall cooperate with county governments to the fullest extent possible within the limitations of the resources of the board.

(l) Each area board shall submit to the state council a summary of its activities and accomplishments in the previous year. The state council, in consultation with area boards, shall determine the timing of, and format for, this summary.

(m) It is the intent of the Legislature that area boards shall maintain local discretion in conducting their advocacy activities. The state council shall not direct the advocacy activities of the area boards, except when specifically authorized by law, or when necessary to ensure compliance with federal requirements.

Article 7. State Council and Area Board Costs
and Support Services

This Article heading was
amended by SB 1630.

4550. The state council's operating costs shall include honoraria and actual and necessary expenses for council members, costs associated with the area boards, as described in this article, and other administrative, professional, and secretarial support services necessary to the operation of the state council. Federal developmental disability funds received by the state under Public Law ~~106-402~~⁹⁴⁻¹⁰³, ~~as amended~~ (42 U.S.C. Sec. ~~15001~~⁶⁰⁰⁰ et seq.), shall be allotted in any one year for these operating costs. Each member of the state council shall receive one hundred dollars (\$100) per day for each full day of work performed directly related to council business, not to exceed 50 days in any fiscal year, and shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties under this division.

This section was amended by SB 1630 and specifies inclusion of area board costs with those of the State Council's costs.

4551. (a)(1) Within the limit of funds allotted for these purposes, the state council chairperson, with the concurrence of a majority of the state council, shall appoint an executive director and, pursuant to paragraph (1) of subdivision (c) of Section 4553, shall appoint an executive director for each area board. The Governor, upon the recommendation of the state council following consultation with the area boards, shall appoint a deputy director for area board operations. The Governor, upon the recommendation of the executive director of the state council, shall appoint not more than two deputy directors ~~staff persons~~. All other state council employees that the state council may require shall be appointed by the executive director, with the approval of the state council.

This section was amended by **SB** 1630 and allows for the appointment of area board executive directors and a deputy director for area board operations.

(2) The executive director, all deputy directors, and each area board executive director, shall be paid a salary that which is comparable to the director, deputy director, or manager of other state boards, ~~and commissions or other state department regional offices~~ with similar responsibilities. The executive director and three deputy directors of appointed by the state council and the executive director of each area board ~~and not more than two staff persons appointed by the Governor~~ shall be exempt from civil service.

(b) Among other duties as the executive director of the state council may require, the deputy director for area board operations shall provide assistance to the area boards, including, but not limited to, resolving common problems, improving coordination, and fostering the exchange of information among the area boards and between the area boards and the state council.

This section was amended by SB 1630 and requires the deputy director for area board operations to provide assistance to the area boards.

(c) Each area board executive director employed by the state on December 31, 2002, shall continue to be employed in a job classification at the same or higher salary by the council on January 1, 2003, and thereafter, unless he or she resigns or is terminated from employment for good cause. The Executive Director of the Organization of Area Boards on December 31, 2002, shall continue to be employed in a job classification at the same or higher salary by the council on January 1, 2003, and shall serve as the deputy director of area board operations unless he or she resigns or is terminated from employment for good cause.

This section was amended by SB 1630 and specifies salary structure for specified area board and state council employees, and also identifies specific staff responsibilities.

4552. The state council may contract for additional technical assistance with any public or private agency or individual to carry out planning, monitoring, evaluation, and other responsibilities under this division. In order to comply with federal Public Law 106-402 ~~94-103~~, as amended, (42 U.S.C. Sec. 15001 ~~6000~~ et seq.) regulations, all personnel employed by the state council shall be solely responsible, organizationally and administratively, to the state council. The state council shall have responsibility for the selection, hiring, and supervision of all such personnel.

This section was amended by SB 1630 and makes technical amendments.

4552.5. The state council may request information, records, and documents from any other agency of state government, except for confidential patient records. These agencies shall comply with the reasonable requests of the state council.

This section was amended by SB 1630 and is renumbered from 4553.

~~**4553.** The state council may request information, records, and documents from any other agency of state government, except for confidential patient records. All such agencies shall comply with the reasonable requests of the state council.~~

This section was deleted by SB 1630.

4553. (a) The Legislature finds and declares that the advocacy, coordinating, appeals, and other related functions of area boards cannot be effectively provided unless area boards have staff support services from personnel directly responsible and accountable to the area board and state council. Area board staff shall be state employees of the state council. (b)(1) Each area board shall provide to the state council all information and documentation required by the council to prepare and account for the expenditures of an annual budget that includes the basic funding necessary for the area boards to meet the requirements of applicable state and federal law. The state council, in consultation with the area boards, shall determine the timing, of, and format for, the provision of this information and documentation. An area board may present for consideration by the state council a proposal for funds to support any additional activities of the area board not anticipated to be funded through their basic allocation. The state council shall review all area board proposals and shall determine the amount of federal funds under Public Law 106-402 (42 U.S.C. Sec. 15001 et seq.) that shall be allotted to each area board. Nothing in this section shall prevent the appropriation of additional funds to the state council or area boards, or both, from the General Fund or other sources. These funds shall be used only for purposes of extending the activities of the state council or area boards, or both, as authorized by state or federal law. (2) The state council may receive, on behalf of the council or on behalf of any area board, grants of funds in addition to any allocation of state funds or federal funds under Public Law 106-402 (42 U.S.C. Sec. 15001 et seq.), as authorized under this division. These funds shall be used only for purposes of extending the council's or area boards' activities as authorized by state or federal law. (c)(1) Each area board shall have an executive director, nominated by the affirmative votes of a majority of the members of the area board, appointed by the executive director of the state council, and approved by the state council. The executive director shall select and supervise persons to serve in any staff positions as the area board and state council may authorize, pursuant to subdivision (a) of Section 4551. The affirmative votes of a majority of the members of the area board and approval of the state council shall be necessary for removal of an executive director by the executive director of the state council. (2) Each area board, with the approval of the state

This section was amended by SB 1630 and clarifies the role of area boards and the requirements related to providing specified information to the state council, as well as funding for additional services.

council. may contract for additional assistance to carry out its duties as established by this division. (3) Notwithstanding the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2), an area board may meet in executive session for purposes of discussing confidential matters, including, but not limited to, personnel matters.

~~4554. The state council may request area boards on developmental disabilities to assist the state council in carrying out any of the state council's responsibilities in the various regions of the state.~~

This section was deleted by SB 1630.

4555. Notwithstanding any other provision of law, any contract entered into between the State of California and the state council may provide for periodic advanced payments for services to be performed under the contract. No advanced payment made pursuant to this section shall exceed 25 percent of the total annual contract amount.

This section was amended by SB 1630 and allows for contract advanced payments.

~~4561. In order to integrate relevant state planning and budgeting, and in order to comply with federal requirements, a California Developmental Disabilities State Plan shall be prepared by the state council not less often than once every three years, and shall be reviewed and revised, as necessary, on an annual basis. All references in this part to "state plan" shall be references to the California Developmental Disabilities State Plan. The state plan shall include, but not be limited to, all state plan requirements contained in subtitles A and B of Title I of Public Law 106-402 (42 U.S.C. Sec. 15001 et seq.) or requirements established by the United States Secretary of Health and Human Services. of the following parts: (a) A part describing the specific objectives to be achieved under the plan and a listing of the programs, activities, and resources to be used to meet these objectives.~~

This section was amended by SB 1630 and specifies contents required in the state plan.

~~(b) A part designating the nonfederal share that will be required in carrying out each objective and program. (c) A part describing: (1) The extent and scope of services being provided or to be provided, to persons with developmental disabilities under any other state plans or federally assisted state programs that the state conducts and in which persons with developmental disabilities are eligible to participate. (2) How funds allotted to~~

the state under Public Law 94-103, as amended (42 U.S.C. Sec. 6000 et seq.), will be used to complement and augment rather than duplicate or replace services for persons with developmental disabilities who are eligible for federal assistance under any state program to which paragraph (1) is applicable.

~~(d) A part assessing and describing the extent and scope of the federal and state priority service areas which are addressed or will be addressed under the plan. (e) A part examining the provision, and the need for the provision, of the federal and state priority areas, consistent with Public Law 94-103 as amended (42 U.S.C. Sec. 6000 et seq.). (f) A part describing the methods to be used for the periodic evaluation of the plan's effectiveness in meeting the objectives described in subdivision (a).~~

~~(g) A part containing the review and revision of the comprehensive statewide plan to ensure the existence of appropriate planning, financial support, and coordination, and otherwise appropriately address on a statewide and comprehensive basis, urgent needs for the provision of services for persons with developmental disabilities and the families of these persons. In its revision, the plan shall include, at a minimum, all of the following: (1) An analysis of any priority areas in relation to limited support or lack of support for persons with developmental disabilities attributable to either physical impairment, mental impairment, or a combination of physical and mental impairments. (2) An analysis of criteria for eligibility for services including, specialized services and special adaptation of generic services provided by agencies within the state, that may be causing persons with developmental disabilities to be excluded from these services. (3) An analysis of services, assistive technology, or knowledge which may be unavailable to assist persons with developmental disabilities. (4) An analysis of existing and projected fiscal resources. (5) An analysis of any other issues identified by the State Planning Council. (6) The formulation of objectives in both policy reform and service demonstration to address the issues described in paragraphs (1) to (5), inclusive, for all subpopulations of persons with developmental disabilities which may be identified by the state council. (h) A part describing the amount of federal funds from Public Law 94-103, as amended (42 U.S.C. Sec. 6000 et seq.), that shall be allotted to the state council, area boards, and state and nonstate agencies for services, administration, planning, advocacy, coordination~~

~~and other approved purposes as defined in federal law and regulations.~~

4562. (a) The state council and the area boards on developmental disabilities shall conduct activities necessary to develop or implement the state plan in the various regions of the state. (b) In preparing this plan, the council shall utilize information provided by the area boards, statewide and local entities, individuals with developmental disabilities, family members, and other interested parties, to help identify and prioritize actions needed to improve California's system of services and supports for persons with developmental disabilities. The purpose of the plan shall be to ensure a coordinated and comprehensive system of community services and supports that is consumer and family centered and consumer and family directed, and to enable individuals with developmental disabilities to exercise self-determination, independence, productivity, and to be integrated and included in all facets of community life.

This section was amended by **SB 1630** and requires the state council and area boards to conduct specified activities to implement the state plan.

~~**4562.** After January 1, 1978, and each year thereafter, all plans prepared by any agency of state government, which include specific program elements relating to services for persons with developmental disabilities, shall separately identify and describe each such program element as to its suitability for inclusion in the state plan. Program elements accepted for inclusion in the state plan shall be given a priority rating. Any program elements not accepted for inclusion in the state plan shall be appended to the state plan with a written statement explaining the reasons why such program elements were excluded. Before excluding any program element contained in any state agency's plan, the agency shall be informed of the state council's intentions and shall be given an opportunity to confer with the state council.~~

This section was deleted by **SB 1630**.

4563. (a) Area boards shall assess the extent to which services, supports, and other forms of assistance are available to individuals with developmental disabilities and their families within the area board catchment area, and shall make recommendations of objectives in both policy reform and service demonstration, based on identified service and support

This section was amended by **SB 1630** and requires area board to assess the availability of services and supports and assistance and make recommendations based on

needs and priorities within the area board catchment area, to be included in the state plan. (b) Area boards shall participate with the state council in the development and implementation of the state plan and shall submit any information concerning the area's services, needs, and priorities to the state council in a time and format as may be required to meet federal reporting requirements.

needs and priorities. These recommendations are to be included in the state plan. The state plan is to be developed and implemented by both area boards and the state council.

~~**4563.** Within the limit of funds made available, programs and program elements contained in the state plan shall be considered to be endorsed by the state council and acceptable for financial support through state or federal funding sources. Program elements excluded from the state plan shall be considered to have no state council endorsement for financial support.~~

This section was deleted by SB 1630.

~~**4564.** The state council, in conjunction with the area boards, shall conduct open hearings on the state plan and related budgetary issues prior to submission of the plan pursuant to Section 4565. Such hearings shall be conducted during the month of September of each year in order to coincide with the preparation of the annual Governor's Budget.~~

This section was amended by SB 1630 requires both the state council and area boards to conduct hearings on the state plan.

4565. The state plan shall be given to the Governor, the Secretary of the California Health and Human Services Welfare Agency, the protection and advocacy agency designated by the Governor to fulfill the requirements and assurances of the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, the Superintendent of Public Instruction, the Legislature, and to the chairpersons of all area boards for review and comment prior to its submission by the chairperson of the state council to the United States Secretary of Health and Human Services. Copies of the state plan shall be provided, no later than November 1 of each year, to the Director of Finance and to the Legislature guidance in the development of the Governor's Budget and legislative review of the budget, and for guidance in other legislation pertaining to programs for persons with developmental disabilities.

This section was amended by SB 1630 requires the state plan to also be given to the protection and advocacy agency designated by the Governor.

4567. All state agencies shall cooperate with the reasonable requests of the state council by providing information to the state council in the preparation of the state plan. Any

This section was amended by SB 1630 and makes technical corrections.

expenditures incurred by state agencies in providing this assistance to the state council shall be identified in the state plan and in the state agency's annual budget. These expenditures may be funded in whole or in part by state funds appropriated as the required state share of the developmental disabilities program, or by federal funds from Public Law 106-40294-103, as amended (42 U.S.C. Sec. 15001 6000 et seq.), or both, when the state council allots funds for these purposes in the state plan.

4568. In no event shall the state council allot federal funds from Public Law 106-40294-103, as amended (42 U.S.C. Sec. 15001 6000 et seq.) to state agencies to replace state funds currently allocated to such agencies for the purpose of planning programs for persons with developmental disabilities.

This section was amended by SB 1630 and makes technical corrections.

CHAPTER 4. Life Quality Assessments Conducted by Area Boards

4570. (a) In order to remain informed regarding the quality of services in the area and to protect the legal, civil, and service rights of persons with developmental disabilities, the Legislature finds that it is necessary to conduct life quality assessments with consumers served by the regional centers.

This Chapter was added by SB 1630 and requires the area boards to conduct life quality assessments.

(b) The department shall enter into an interagency agreement with the state council, on behalf of the area boards, to conduct the life quality assessments described in this section. This interagency agreement shall include assurances that the state council shall not direct the area boards in their conduct of these assessments or in the content or format of the annual reports submitted to the council by the area boards.

(c) Consistent with the responsibilities described in this chapter, the area board, with the consent of the consumer and, when appropriate, a family member, shall conduct life quality assessments with consumers living in out-of-home placements, supported living arrangements, or independent living arrangements no less than once every three years or more frequently upon the request of a consumer, or, when appropriate, a family member. A regional center or the department shall annually provide the local area board with a list, including, but not limited to, the name, address, and telephone number of each consumer, and, when appropriate, a family member, the consumer's date of birth, and the

consumer's case manager, for all consumers living in out-of-home placements, supported living arrangements, or independent living arrangements, in order to facilitate area board contact with consumers and, when appropriate, family members, for the purpose of conducting life quality assessments.

(d) The life quality assessment shall be conducted by utilizing the "Looking at Life Quality Handbook" or subsequent revisions developed by the department.

(e) The assessments shall be conducted by consumers, families, providers, and others, including volunteer surveyors. Each area board shall recruit, train, supervise, and coordinate surveyors. Upon request, and if feasible, the area board shall respect the request of a consumer and, when appropriate, family member, for a specific surveyor to conduct the life quality assessment. An area board may provide stipends to surveyors.

(f) A life quality assessment shall be conducted within 90 days prior to a consumer's triennial individual program plan meeting, so that the consumer and regional center may use this information as part of the planning process.

(g) Prior to conducting a life quality assessment, the area board shall meet with the regional center to coordinate the exchange of appropriate information necessary to conduct the assessment and ensure timely followup to identified violations of any legal, civil, or service rights.

(h) Following the conduct of each life quality assessment, the area board shall develop a report of its findings and provide a copy of the report to the consumer, when appropriate, family members, and the regional center providing case management services to the consumer. In the event that a report identifies alleged violations of any legal, civil, or service right, the area board shall notify the regional center and the department of the alleged violation. The department shall monitor the regional center to ensure that violations are addressed and resolved in a timely manner.

(i) Regional centers shall review information from the life quality assessments on a systemic basis in order to identify training and resource development needs.

(j)(1) On an annual basis, each area board shall prepare and submit a report to the state council describing its activities and accomplishments related to the implementation of this section. The report shall include, but not be limited to, the number of life

quality assessments conducted. the number of surveyors, including those provided stipends, a description of the surveyor recruitment process and training program, including any barriers to recruitment, the number, nature, and outcome of any identified violations of legal, civil, or service rights reported to regional centers, and recommendations for improvement in the life quality assessment process.

(2) By September 15 of each year, the state council shall compile these reports and forward to the Governor, the Legislature, and the department.

(k) Implementation of this section shall be subject to an annual appropriation of funds in the Budget Act for this purpose.

**~~CHAPTER 4. Area Boards on Developmental Disabilities
Article 1. General~~**

~~4570. Because of the vast size, complexity, and diversity of the State of California, the Legislature finds that the legal, civil, and service rights of persons with developmental disabilities will not be adequately guaranteed throughout the state unless monitoring responsibility is established on a regional basis through area boards on developmental disabilities.~~

This chapter was repealed by SB 1630.

~~4571. The area boards in existence as of January 1, 1976, shall continue to exist, within the same geographic regions of the state after January 1, 1977, but shall thereafter be constituted and shall operate according to the provisions of this division.~~

~~4572. The Director of Developmental Services, in cooperation with the State Council on Developmental Disabilities, shall, by January 1, 1978, and periodically thereafter, conduct a thorough review of the geographic boundaries served the area boards to determine whether additional area boards should be established to more effectively implement the provisions of this division. In conducting such review, the director shall seek the advice of the state council, area boards, and consumers of services.~~

~~Article 2. Composition and Appointments~~

~~4575. After January 1, 1977, area boards shall be comprised, as follows:~~

~~(a) For areas consisting of one to four counties, the area board~~

shall consist of a total of 12 voting members appointed by the governing bodies of the counties, each county appointing an equal number of voting members, and five voting members appointed by the Governor.

(b) For areas consisting of five to seven counties, the area board shall consist of two voting members appointed by the Governor.

(c) For areas consisting of eight or more counties, the area board shall consist of one voting member appointed by the governing body of each county, and five members appointed by the Governor.

Of the members first appointed, five shall serve for one year, five shall serve for two years, and the remaining members shall serve for three years. Subsequent members shall serve for three years. In counties with more than 100,000 population, no member shall serve more than two consecutive three-year terms.

~~4576.~~ The governing bodies of the counties in each arc shall select their appointees from among the following groups, and, to the extent feasible, in the following proportions:

(a) Persons with developmental disabilities or the parents or guardians or conservators of such persons — 50 percent.

~~4577.~~ Prior to making their appointments, the Governor and the governing bodies of counties shall request recommendations from professional organizations, from organizations within the area representing persons with developmental disabilities, and from organizations and agencies within the area that deliver services to such persons. In making their appointments, the Governor and the governing bodies of counties shall appoint persons who have demonstrated interest and leadership in human service activities.

~~4578.~~ In order to prevent any potential conflicts of interest, voting members of area boards shall not be employed as providers of service to persons with developmental disabilities, or be members of the governing board of any entity providing such service, when such service is funded in whole or in part with state funds.

~~4579.~~ The Governor shall give consideration to the relative populations of the counties within the area in selecting his appointees to the area boards. Nothing in this chapter shall prevent the reappointment or replacement of any individual presently serving on an existing area board, provided any such reappointment is in conformity to all of the criteria established in this chapter. Any individual presently serving on an existing area board may continue to serve beyond January 1, 1977, until a replacement is appointed, or 60 days, whichever comes first. All members of the area board shall be residents of the area.

~~Article 3. Organization~~

~~4585.~~ The members of an area board shall serve without compensation, but shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties as members of the board or of committees established by the board. Each area board shall meet at least quarterly and on call of the board chairperson, as often as necessary to fulfill its duties. All meetings and records of the area board shall be open to the public.

~~4586.~~ Each area board shall, by majority vote of the voting members, elect its own chairperson from among the appointed members, and shall establish such committees as it deems necessary or desirable. The board chairperson shall appoint all members of committees of the area board. An area board shall appoint a professional advisory committee composed of professional persons serving individuals with developmental disabilities. The professional advisory committee shall provide advice, guidance, recommendations, and technical assistance to the area board in order to assist the area board in carrying out its mandated functions enumerated in Article 4 (commencing with Section 4590) of this chapter. Such professional advisory committee shall designate one of its members to serve as an ex officio member of the area board. An area board may call upon representatives of all agencies receiving state funds for assistance and information, and may invite persons with developmental disabilities, their parents or guardians or conservators, professionals or members of the general public

to participate on area board committees.

Article 4. Area Board Functions

~~4590.~~ Area boards shall protect and advocate the rights of all persons in the area with developmental disabilities. The area board shall have the authority to pursue legal, administrative, and other appropriate remedies to insure the protection of the legal, civil, and service rights of persons who require services or who are receiving services in the area. In carrying out this responsibility, area boards may appoint a representative to assist the person in expressing his or her desires and in making decisions and advocating his or her needs, preferences, and choices, where the person with developmental disabilities has no parent, guardian, or conservator legally authorized to represent him or her and the person has either requested the appointment of a representative or the rights or interests of the person, as determined by the area board, will not be properly protected or advocated without the appointment of a representative. Where there is no guardian or conservator, the person's choice, if expressed, including the right to reject the assistance of a representative, shall be honored. If the person does not express a preference, the order of preference for selection of the representative shall be the person's parent, involved family member, or a volunteer selected by the area board. In establishing these preferences, it is not the intent of the Legislature that parents or involved family members be required to be appointed guardian or conservator in order to be selected. Unless the consumer expresses otherwise or good cause otherwise exists, the request of the parents or involved family members to be appointed the representatives shall be honored.

The area board, where appropriate pursuant to this section, shall appoint a representative to advocate the rights and protect the interests of a person residing in a developmental center for whom community placement is proposed pursuant to Section 4803.

The area board shall identify any evidence of the denial of these rights, shall inform the appropriate local, state, or federal officials of their findings, and shall assist these officials in eliminating all forms of discrimination against

persons with developmental disabilities in housing, recreation, education, health and mental health care, employment, and other service programs available to the general population.

~~4591.~~ Area boards shall conduct or cause to be conducted public information programs for professional groups and for the general public, to increase professional and public awareness of prevention and habilitation programs, and to eliminate barriers to social integration, employment, and participation of persons with developmental disabilities in all community activities.

~~4592.~~ Area boards shall encourage and assist in the establishment of independent citizen advocacy organizations that provide practical personal services to individuals with developmental disabilities. These citizen advocacy organizations shall be established for the purpose of recruiting, training, and assigning volunteers to work with individuals with developmental disabilities to assist them in using community services and participating in community activities.

Area boards shall recommend to the state council independent citizen advocacy organizations that shall be considered for federal funding under the provisions of Public Law 94-103, as amended (42 U.S.C. Sec. 6000 et seq.)

~~4593.~~ To the extent that resources are available, area boards shall review the policies and practices of publicly funded agencies that serve or may serve persons with developmental disabilities to determine if the programs are meeting their obligations under local, state, and federal statutes. A regional center may notify the area board when the regional center believes a publicly funded program is failing to meet its obligations in serving persons with developmental disabilities. The regional center may provide the area board with a comprehensive summary of the issues and the statute or regulation alleged to be violated. If the area board finds that the agency is not meeting its obligations, the area board shall inform, in writing, the director and the managing board of the noncomplying agency of its findings. The agency shall, within 15 days respond, in writing, to the

area board's findings. Following receipt of the agency's response, if the area board continues to find that the agency is not meeting its obligations the area board shall pursue informal efforts to resolve the issue.

If, within 30 days of implementing informal efforts to resolve the issue, the area board continues to find that the agency is not meeting its obligations under local, state, or federal statutes, the area board shall conduct a public hearing to receive testimony on its findings.

If the problem has not been resolved within 30 days following the public hearing, the area board may provide the state council with its findings and may request authorization to initiate legal action. An area board shall not initiate legal action without prior authorization from the state council.

However, the area board may assist any other person, agency, or organization that may pursue litigation related to the area board's findings.

~~4594.~~ In carrying out their review functions, area boards shall solicit the advice of knowledgeable professionals, consumers, and consumer representatives about problems within the service delivery system in the region. In enacting this chapter, it is the intent of the Legislature that the area boards not duplicate the functions assigned to other agencies that are routinely responsible for monitoring, regulating, or licensing programs for developmentally disabled persons. Area boards may call upon such agencies for information and assistance in order to carry out their responsibilities more effectively. Unless otherwise prohibited by law, such agencies shall provide information requested by the area boards and shall cooperate fully in complying with all reasonable requests for assistance.

~~4595.~~ The executive director of the state council shall review the findings developed pursuant to Section 4593 and may conduct additional fact finding investigations. The executive director shall report his or her findings to the state council within 30 days and shall recommend a course of action to be pursued by the council, the area board, or other state administrative or legislative officials.

The state council shall review the report of the executive director and shall take such action as it deems necessary to

resolve the problem. If the council authorizes the area board to initiate legal action, the state council shall make available to the area board legal assistance through the legal services provisions of Public Law 94-103.

The state plan shall include an annual allotment of federal funds from Public Law 94-103 to be utilized for such legal assistance to area boards.

~~4596.~~ Area boards shall remain informed about the quality of services in the area and shall inform appropriate state and local licensing agencies of alleged fire, safety, health, or other violations of legally established standards, in any facility providing service to persons with developmental disabilities, that may be brought to the attention of the area board. If an area board receives evidence of criminal misconduct by an individual or agency funded in whole or in part with state funds under this division, the area board shall immediately inform appropriate law enforcement agencies about the alleged misconduct.

~~4596.5.~~ (a) In order to remain informed about the quality of services in the area and protect the legal, civil, and service rights of persons with developmental disabilities pursuant to Section 4590, the Legislature finds that it is necessary to conduct life quality assessments with consumers served by the regional centers.

(b) It is the intent of the Legislature that life quality assessments described in this section be conducted by area boards, unless an independent evaluation of the life quality assessment process, that shall be completed by April 30, 1998, identifies compelling reasons why this function should not be conducted by area boards.

(c) By July 1, 1998, the department shall enter into an interagency agreement with the Organization of Area Boards, on behalf of the area boards, to conduct the life quality assessments described in this section.

(d) Consistent with the responsibilities described in this chapter, the area board, with the consent of the consumer and, when appropriate, a family member, shall conduct life quality assessments with consumers living in out-of-home placements, supported living arrangements, or independent living arrangements no less than once every three years or

more frequently upon the request of a consumer, or, when appropriate, a family member. A regional center or the department shall annually provide the local area board with a list, including, but not limited to, the name, address, and telephone number of each consumer, and, when appropriate, a family member, the consumer's date of birth, and the consumer's case manager, for all consumers living in out-of-home placements, supported living arrangement, or independent living arrangements, in order to facilitate area board contact with consumers and, when appropriate, family members, for the purpose of conducting life quality assessments.

(e) The life quality assessments shall be conducted by utilizing the "Looking at Life Quality Handbook" or subsequent revisions developed by the department.

(f) The assessments shall be conducted by consumers, families, providers, and others, including volunteer surveyors. Each area board shall recruit, train, supervise, and coordinate surveyors. Upon request, and if feasible, the area board shall respect the request of a consumer and, when appropriate, family member, for a specific surveyor to conduct the life quality assessment. An area board may provide stipends to surveyors.

(g) A life quality assessment shall be conducted within 90 days prior to a consumer's triennial individual program plan meeting, so that the consumer and regional center may use this information as part of the planning process.

(h) Prior to conducting a life quality assessment, the area board shall meet with the regional center to coordinate the exchange of appropriate information necessary to conduct the assessment and ensure timely followup to identified violations of any legal, civil, or service rights.

(i) Following the conduct of each life quality assessment, the area board shall develop a report of its findings and provide a copy of the report to the consumer, when appropriate, family members, and the regional center providing case management services to the consumer. In the event that a report identifies alleged violations of any legal, civil, or service right, the area board shall notify the regional center and the department of the alleged violation. The department shall monitor the regional center to ensure that violations are addressed and resolved in a timely manner.

(j) Regional centers shall review information from the life quality assessments on a systemic basis in order to identify training and resource development needs.

(k) Effective September 1, 1999, and annually thereafter, the Organizations of Area Boards shall prepare and submit a report to the Governor, the Legislature, and the department describing the activities and accomplishments related to the implementation of this section. The report shall include, but not be limited to, the number of life quality assessments conducted, the number of surveyors, including those provided stipends, a description of the surveyor recruitment, the number, nature, and outcome of any identified violations of legal, civil, or service rights reported to regional centers, and recommendations for improvement in the life quality assessment process.

(l) Implementation of this section shall be subject to an annual appropriation of funds in the state Budget Act for this purpose.

(m) If the department finds, based on the results of the independent study described in subdivision (b), that there is a compelling reason why the area boards should not conduct the life quality assessments, it may select an alternative governmental agency or contract with a nonprofit agency to conduct the life quality assessments as described in this section. The department shall notify the Governor and the Legislature of such a finding, including the reasons for the finding and a description of the alternative method by which the department will ensure the life quality assessment process is completed.

~~4597.~~ Area boards shall assist the state council in the preparation of the state plan by submitting such information concerning the area's services, needs, and priorities as may be requested by the state council shall be submitted at such time as requested by the state council. The format for such planning information shall be developed through consultation with the Organization of Area Boards.

~~4598.~~ The Organization of Area Boards shall consist of the respective chairpersons or their designees from among the volunteer board members of the individual boards established

under the provisions of this chapter. The purposes of this organization shall include activities to resolve common problems, improve coordination, exchange information between areas, and provide advice and recommendations to state agencies, the Legislature, and the state council.

~~4598.5. If, in the unforeseen event that federal funds are not available for appropriation or transfer to Item 4110-001-0001 of Section 2.00 of the Budget Act of 2000 for support of the Organization of Area Boards on Developmental Disabilities, from Item 4100-001-0890 of Section 2.00 of the Budget Act of 2000 based on a determination by the Department of Finance, the Department of Finance shall notify the appropriate fiscal and policy committees of the Legislature and the Joint Legislative Budget Committee within 10 calendar days of this determination. This notification shall specify the dollar amount needed to fully continue operations of the Organizations of Area Boards on Developmental Disabilities, and this amount is hereby appropriated from the General Fund for those purposes, commencing 10 days after the receipt of the notification by the Legislature.~~

~~4599. Area boards shall cooperate with county coordinating councils on developmental disabilities, other regional planning bodies, and consumer organizations in the area. Area boards shall comply with the reasonable requests of such groups and may request the assistance of such groups in carrying out area board responsibilities. The governing body of any county within the area may request the area board to study or investigate programs in the county, for persons with developmental disabilities. The area board shall cooperate with county governments to the fullest extent possible within the limitations of the resources of the board.~~

~~4600. Each area board may, but shall not be required to, adopt an area-wide developmental disabilities plan. The purpose of such area plans shall be to organize in one document information about service needs priorities, program objectives, and the availability and quality of programs for persons with developmental disabilities in the area. If an area plan is deemed necessary, such plan shall be made available~~

to be used by the area board and its committees, other organizations and planning bodies in the area, and the state council. If an area plan is not deemed necessary, the area board shall develop a list and description of local needs and priorities. Such list and description shall be submitted to the state council pursuant to Section 4597 and shall be disseminated to other organizations and planning bodies in the area.

~~4601.~~ Area boards shall encourage the development of needed services of good quality and shall coordinate such developments to prevent duplication, fragmentation of services, and unnecessary expenditures. Prior to providing additional funds for major expansion of existing programs for persons with developmental disabilities or the establishment of new programs in an area, state agencies shall consult with the area board regarding shall not apply to state funds for public education allocated on an apportionment basis pursuant to state law.

~~4602.~~ When convening any task force or advisory group, the area boards shall make its best effort to ensure representation by consumers and family members representing the community's multicultural diversity.

Article 5. Review of Area Boards

~~4605.~~ On January 1, 1978, and each year thereafter, each area board shall submit to the state council a summary of its activities and accomplishments in such form as shall be required by the state council.

Article 6. Area Board Costs and Support Services

~~4610.~~ The Legislature finds that the advocacy, coordinating, appeals, and other related functions of area boards cannot be effectively provided unless area boards have staff support services from personnel directly responsible and accountable only to the area board.

In order to prevent potential conflicts of interest, personnel employed by area boards shall not be state employees. If any personnel employed by area boards are supported by county

funds, such employees shall be solely accountable to the area board for administrative direction:

~~4611. Each year each area board shall present for consideration by the state council a proposal for funds to support the activities of the area board. The state council shall review all area board proposals and shall include in the state plan the amount of federal funds under Public Law 94-103, as amended (42 U.S.C. Sec. 6000 et seq.) that shall be allotted to each area board:~~

~~The allotment of federal Public Law 94-103, as amended (42 U.S.C. Sec. 6000 et seq.), federal developmental disability funds, in the state plan, shall include an allotment to all area boards. Nothing in this section shall prevent the appropriation of additional funds to area boards from the General Fund:~~

~~Area boards may receive grants of funds in addition to an allocation of state funds or federal funds under Public Law 94-103, as amended (42 U.S.C. Sec. 6000 et seq.) as authorized under this division. These funds shall be used only for purposes of extending the area boards' activities as authorized in this division:~~

~~4612. Each area board may appoint an executive secretary who may appoint persons to such staff positions as the area board may authorize. The affirmative votes of a majority of the members of the area board shall be necessary for the appointment or removal of an executive secretary:~~

~~Each area board may contract for additional technical assistance to carry out its duties as established by this division:~~

~~4613. Notwithstanding any other provision of law, any contract entered into between the State of California and an area board may provide for periodic advanced payments for services to be performed under such contract. No advanced payment made pursuant to this section shall exceed 25 percent of the total annual contract amount:~~

4631.5. (a) The Legislature finds and declares both of the following:

(1) The state is facing unprecedented fiscal crisis that will

This section was added by **AB 442** and requires a \$52,000,000 unallocated reduction in the

require an unallocated reduction in the 2002-03 fiscal year for regional centers' purchase of service budgets of fifty-two million dollars (\$52,000,000).

(2) Even when the state faces an unprecedented fiscal crisis, the services and supports set forth in the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500)) shall continue to be provided to individuals with developmental disabilities in accordance with state and federal statutes, regulations, and case law, including Association for Retarded Citizens v. Department of Developmental Services (1985) 38 Cal.3d 384.

(b) It is the intent of the Legislature that actions taken pursuant to this section shall not eliminate an individual's eligibility, adversely affect an individual's health and safety, or interfere with an individual's rights as described in Section 4502.

(c) In order to ensure that services to eligible consumers are available throughout the fiscal year, regional centers shall administer their contracts within the level of funding appropriated by the annual Budget Act.

(d) Within 30 days of the enactment of the annual Budget Act, and after consultation with stakeholder organizations, the department shall determine the amount of unallocated reduction that each regional center shall make in its purchase-of-service budget and shall provide each regional center with guidelines, technical assistance, and a variety of options for reducing operations and purchase of service costs.

(e) Within 60 days of the enactment of the annual Budget Act, each regional center shall develop and submit a plan to the department describing in detail how it intends to absorb the unallocated reduction and achieve savings necessary to provide services to eligible consumers throughout the fiscal year within the limitations of the funds allocated. Prior to adopting the plan, each regional center shall hold a public hearing in order to receive comment on the plan. The regional center shall provide notice to the community at least 10 days in advance of the public hearing. The regional center shall summarize and respond to the public testimony in its plan.

(f) A regional center shall implement components of its plans upon approval of the department. Within 30 days of receipt of the plan, the department shall review and approve, or

regional center purchase of service budget. Also requires each regional center to submit to the Department a plan describing how the regional center will absorb the budget reduction.

require modification of portions of the regional center's plan.
(g) This section shall become inoperative on July 1, 2004,
and, as of January 1, 2005, is repealed, unless a later enacted
statute, that becomes operative on or before January 1, 2005,
deletes or extends the dates on which it becomes inoperative
and is repealed.

4640.6. (a) In approving regional center contracts, the department shall ensure that regional center staffing patterns demonstrate that direct service coordination are the highest priority.

(b) Contracts between the department and regional centers shall require that regional centers implement an emergency response system that ensures that a regional center staff person will respond to a consumer, or individual acting on behalf of a consumer, within two hours of the time an emergency call is placed. This emergency response system shall be operational 24 hours per day, 365 days per year.

(c) Contracts between the department and regional centers shall require regional centers to have service coordinator-to-consumer ratios, as follows: (1) An average service coordinator-to-consumer ratio of one to 62 for all consumers who have not moved from the developmental centers to the community since April 14, 1993. In no case shall a service coordinator for these consumers have an assigned caseload in excess of 79 consumers for more than 60 days. (2) An average service coordinator-to-consumer ratio of ~~one~~ 1 to 45 for all consumers who have moved from a developmental center to the community since April 14, 1993. In no case shall a service coordinator for these consumers have an assigned caseload in excess of 59 consumers for more than 60 days.

(d) For purposes of this section, "service coordinator" means a regional center employee whose primary responsibility includes preparing, implementing, and monitoring consumers' individual program plans, securing and coordinating consumer services and supports, and providing placement and monitoring activities.

(e) In order to ensure that caseload ratios are maintained pursuant to this section, each regional center shall provide service coordinator caseload data to the department in September and March of each fiscal year, commencing in the

This section was amended by AB 442 and requires that all regional center employment contracts be available for public review and also makes technical amendments.

1999-2000 fiscal year. The data shall be submitted in a format prescribed by the department. Within 30 days of receipt of data submitted pursuant to this subdivision, the department shall make a summary of the data available to the public upon request. The department shall verify the accuracy of the data when conducting regional center fiscal audits. Data submitted by regional centers pursuant to this subdivision shall: (1) Only include data on service coordinator positions as defined in subdivision (d). Regional centers shall identify the number of positions that perform service coordinator duties on less than a full-time basis. Staffing ratios reported pursuant to this subdivision shall reflect the appropriate proportionality of these staff to consumers served. (2) Be reported separately for service coordinators whose caseload primarily includes any of the following: (A) Consumers who are three years of age and older and who have not moved from the developmental center to the community since April 14, 1993. (B) Consumers who have moved from a developmental center to the community since April 14, 1993. (C) Consumers who are younger than three years of age. (3) Not include positions that are vacant for more than 60 days.

(f) The department shall provide technical assistance and require a plan of correction for any regional center that, for two consecutive reporting periods, fails to maintain service coordinator caseload ratios required by this section or otherwise demonstrates an inability to maintain appropriate staffing patterns pursuant to this section. Plans of correction shall be developed following input from the local area board, local organizations representing consumers, family members, regional center employees, including recognized labor organizations, and service providers, and other interested parties.

(g) Contracts between the department and regional center shall require the regional center to have, or contract for, all of the following areas: (1) Criminal justice expertise to assist the regional center in providing services and support to consumers involved in the criminal justice system as a victim, defendant, inmate, or parolee. (2) Special education expertise to assist the regional center in providing advocacy and support to families seeking appropriate educational services

from a school district. (3) Family support expertise to assist the regional center in maximizing the effectiveness of support and services provided to families. (4) Housing expertise to assist the regional center in accessing affordable housing for consumers in independent or supportive living arrangements. (5) Community integration expertise to assist consumers and families in accessing integrated services and supports and improved opportunities to participate in community life. (6) Quality assurance expertise, to assist the regional center to provide the necessary coordination and cooperation with the area board in conducting quality-of-life assessments and coordinating the regional center quality assurance efforts. (7) Each regional center shall employ at least one consumer advocate who is a person with developmental disabilities. (8) Other staffing arrangements related to the delivery of services that the department determines are necessary to ensure maximum cost-effectiveness and to ensure that the service needs of consumers and families are met.

(h) Any regional center proposing a staffing arrangement that substantially deviates from the requirements of this section shall request a waiver from the department. Prior to granting a waiver, the department shall require a detailed staffing proposal, including, but not limited to, how the proposed staffing arrangement will benefit consumers and families served, and shall demonstrate clear and convincing support for the proposed staffing arrangement from constituencies served and impacted, that include, but are not limited to, consumers, families, providers, advocates, and recognized labor organizations. In addition, the regional center shall submit to the department any written opposition to the proposal from organizations or individuals, including, but not limited to, consumers, families, providers, and advocates, including recognized labor organizations. The department may grant waivers to regional centers that sufficiently demonstrate that the proposed staffing arrangement is in the best interest of consumers and families served, complies with the requirements of this chapter, and does not violate any contractual requirements. A waiver shall be approved by the department for up to 12 months, at which time a regional center may submit a new request pursuant to this subdivision.

(i) The requirements of subdivisions (c), (f), and (h) shall not apply when a regional center is required to develop an

expenditure plan pursuant to Section 4791, and when the expenditure plan addresses the specific impact of the budget reduction on staffing requirements and the expenditure plan is approved by the department.

(j)(1) Any contract between the department and a regional center entered into on and after January 1, 2003, shall require that all employment contracts entered into with regional center staff or contractors be available to the public for review, upon request. For purposes of this subdivision, an employment contract or portion thereof may not be deemed confidential nor unavailable for public review.

(2) Notwithstanding paragraph (1), the social security number of the contracting party may not be disclosed. (3) The term of the employment contract between the regional center and an employee or contractor shall not exceed the term of the state's contract with the regional center.

4643. (a) If assessment is needed, prior to July 1, 2003, it the assessment shall be performed within 120 days following initial intake. Assessment shall be performed as soon as possible and in no event more than 60 days following initial intake where any delay would expose the client to unnecessary risk to his or her health and safety or to significant further delay in mental or physical development, or the client would be at imminent risk of placement in a more restrictive environment. Assessment may include collection and review of available historical diagnostic data, provision or procurement of necessary tests and evaluations, and summarization of developmental levels and service needs and is conditional upon receipt of the release of information specified in subdivision (b). On July 1, 2000, the 120 days allowed for assessment shall revert to 60 days On and after July 1, 2003, the assessment shall be performed within 60 days following intake and if unusual circumstances prevent the completion of assessment within 60 days following intake, this assessment period may be extended by one 30-day period with the advance written approval of the department.

(b) In determining if an individual meets the definition of developmental disability contained in subdivision (a) of Section 4512, the regional center may consider evaluations and tests, including, but not limited to, intelligence tests, adaptive functioning tests, neurological and

This section was amended by AB 442 and allows 120 days for assessment until July 1, 2003.

neuropsychological tests, diagnostic tests performed by a physician, psychiatric tests, and other tests or evaluations that have been performed by, and are available from, other sources.

4646.5. (a) The planning process for the individual program plan described in Section 4646 shall include all of the following: (1) Gathering information and conducting assessments to determine the life goals, capabilities and strengths, preferences, barriers, and concerns or problems of the person with developmental disabilities. For children with developmental disabilities, this process should include a review of the strengths, preferences, and needs of the child and the family unit as a whole. Assessments shall be conducted by qualified individuals and performed in natural environments whenever possible. Information shall be taken from the consumer, his or her parents and other family members, his or her friends, advocates, providers of services and supports, and other agencies. The assessment process shall reflect awareness of, and sensitivity to, the lifestyle and cultural background of the consumer and the family. (2) A statement of goals, based on the needs, preferences, and life choices of the individual with developmental disabilities, and a statement of specific, time-limited objectives for implementing the person's goals and addressing his or her own needs. These objectives shall be stated in terms that allow measurement of progress or monitoring of service delivery. These goals and objectives should maximize opportunities for the consumer to develop relationships, be part of community life in the areas of community participation, housing, work, school, and leisure, increase control over his or her life, acquire increasingly positive roles in community life, and develop competencies to help accomplish these goals. (3) When developing individual program plans for children, regional centers shall be guided by the principles, process, and services and support parameters set forth in Section 4685. (4) A schedule of the type and amount of services and supports to be purchased by the regional center or obtained from generic agencies or other resources in order to achieve the individual program plan goals and objectives, and identification of the provider or providers of service responsible for attaining each objective,

This section was amended by AB 442 and changes the Department's schedule for reviewing random samples of IPP's from annually to biennially.

including, but not limited to, vendors, contracted providers, generic service agencies, and natural supports. The plan shall specify the approximate scheduled start date for services and supports and shall contain time lines for actions necessary to begin services and supports, including generic services. (5) When agreed to by the consumer, the parents or legally appointed guardian of a minor consumer, or the legally appointed conservator of an adult consumer or the authorized representative, including those appointed pursuant to Section 4590 and subdivision (e) of Section 4705, a review of the general health status of the adult or child including a medical, dental, and mental health needs shall be conducted. This review shall include a discussion of current medications, any observed side effects, and the date of last review of the medication. Service providers shall cooperate with the planning team to provide any information necessary to complete the health status review. If any concerns are noted during the review, referrals shall be made to regional center clinicians or to the consumer's physician, as appropriate. Documentation of health status and referrals shall be made in the consumer's record by the service coordinator. (6) A schedule of regular periodic review and reevaluation to ascertain that planned services have been provided, that objectives have been fulfilled within the times specified, and that consumers and families are satisfied with the individual program plan and its implementation. (b) For all active cases, individual program plans shall be reviewed and modified by the planning team, through the process described in Section 4646, as necessary, in response to the person's achievement or changing needs, and no less often than once every three years. If the consumer or, where appropriate, the consumer's parents, legal guardian, or conservator requests an individual program plan review, the individual program shall be reviewed within 30 days after the request is submitted. (c) (1) The department, with the participation of representatives of a statewide consumer organization, the Association of Regional Center Agencies, an organized labor organization representing service coordination staff, and the Organization of Area Boards shall prepare training material and a standard format and instructions for the preparation of individual program plans, which embodies an approach centered on the person and family. (2) Each regional center

shall use the training materials and format prepared by the department pursuant to paragraph (1). (3) The department shall ~~annually~~ biennially review a random sample of individual program plans at each regional center to assure that these plans are being developed and modified in compliance with Section 4646 and this section.

4691. (a) The Legislature reaffirms its intent that community-based day programs be planned and provided as part of a continuum of services to enable persons with developmental disabilities to approximate the pattern of everyday living available to people of the same age without disabilities. The Legislature further intends that standards be developed to ensure high quality services, and that equitable rate setting procedures based upon those standards be established, maintained, and revised, as necessary. The Legislature intends that rate setting procedures be developed for all community-based day programs, which include adult development centers, activity centers, infant day programs, behavior management programs, social recreational programs, and independent living programs. (b) For the purpose of ensuring that regional centers may secure high quality services for persons with developmental disabilities, the State Department of Departmental Services shall promulgate regulations establishing program standards and an equitable process for setting rates of state payment for community-based day programs. These regulations shall include, but are not limited to: (1) The standards and requirements related to the operation of the program including, but not limited to, staff qualifications, staff-to-client ratios, client entrance and exit criteria, program design, program evaluation, program and client records and documentation, client placement and personnel requirements and functions.

(2) The allowable cost components of the program including salary and wages, staff benefits, operating expenses, and management organization costs where two or more programs are operated by a separate and distinct corporation or entity.

(3) The rate determination processes for establishing rates, based on the allowable costs of the allowable cost components. Different rate determination processes may be developed for establishing rates for new and existing

This section was amended by SB 1630 and eliminates the need for referring to the "OAB."

programs, and for the initial and subsequent years of implementation of the regulations. The processes shall include, but are not limited to:

(A) The procedure for identification and grouping of programs by type of day program and approved staff-to-client ratio.

(B) The requirements for an identification of the program, cost, and other information, if any, which the program is required to submit to the department or the regional center, the consequences, if any, for failure to do so, and the time frames and format for submission and review. (C) The rate setting methodology. (D) A procedure for adjusting rates as a result of anticipated and unanticipated program changes and fiscal audits of the program and a procedure for appealing rates, including the time frames for the program to request an adjustment or appeal, and for the department to respond. (E) A procedure for increasing established rates and the allowable range of rates due to cost-of-living adjustments. (F) A procedure for increasing established rates as a result of Budget Act appropriations made pursuant to the rate setting methodology established pursuant to Section 4691.5 and subdivision (c). The department shall develop these regulations in consultation with representatives from organizations representing the developmental services system as determined by the department. The State Council on Developmental Disabilities, ~~the Organization of Area Boards~~, and other organizations representing regional centers, providers, and clients shall have an opportunity to review and comment upon the proposed regulations prior to their promulgation. The department shall promulgate these regulations for all community-based day programs by July 1, 1990. (c) Upon the promulgation of regulations pursuant to subdivision (b), and pursuant to Section 4691.5, and by September 1 of each year thereafter, the department shall establish rates pursuant to the regulations. Rate increases during fiscal years 1990-91 and 1991-92 shall be limited to those specified in subdivision (b).

For fiscal year 1992-93 and all succeeding fiscal years, any increases proposed during those years in the rates of reimbursement established pursuant to the regulations, except for rate increases due to rate appeals and rate adjustments based on unanticipated program changes, shall be subject to

the appropriation of sufficient funds in the Budget Act, for those purposes, to fully provide the proposed increase to all eligible programs for the entire fiscal year. If the funds appropriated in the Budget Act are not sufficient to fully provide for the proposed increases in the rates of reimbursement for all eligible programs for the entire fiscal year, the proposed increase shall be limited to the level of funds appropriated. The increases proposed in the rates of reimbursement shall be reduced equitably among all eligible providers in accordance with funds appropriated and the eligible programs shall be reimbursed at the reduced amount for the entire fiscal year. (d) Using the reported costs of day programs reimbursed at a permanent rate and the standards and rate setting processes promulgated pursuant to subdivision (b) as a basis, the department shall report to the Legislature as follows: (1) By April 15, 1993, and every odd year thereafter, the difference between permanent rates for existing programs and the rates of those programs based upon their allowable costs and client attendance, submitted pursuant to the regulations specified in subdivision (b). In reporting the difference, the department shall also identify the amount of the difference associated with programs whose rates are above the allowable range of rates, which is available for increasing the rates of programs whose rates are below the allowable range, to within the allowable range, and any other pertinent cost or rate information which the department deems necessary. (2) By April 15, 1994, and every even year thereafter, the level of funding, if any, which was not appropriated to reimburse providers at the proposed rates reported the prior fiscal year pursuant to paragraph (1), and any other pertinent cost or rate information which the department deems necessary. (3) The April 15, 1996, report pursuant to paragraph (2) shall be prepared jointly by the department and organizations representing community-based day program providers, as determined by the department. That report shall also include a review of the rate setting process and recommendations, if any, for its modification. (e) Rates established by the department pursuant to subdivision (b) are exempt from the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. (f) The department shall ensure that the regional centers monitor compliance with

program standards.

4712. (a) The fair hearing shall be held within 50 days of the date the hearing request form is received by the service agency, unless a continuance based upon a showing of good cause has been granted to the claimant. The service agency may also request a continuance based upon a showing of good cause, provided that the granting of the continuance does not extend the time period for rendering a final administrative decision beyond the 90-day period provided for in this chapter. For purposes of this section, good cause includes, but is not limited to, the following circumstances: (1) Death of a spouse, parent, child, brother, sister, grandparent of the claimant or authorized representative, or legal guardian or conservator of the claimant. (2) Personal illness or injury of the claimant or authorized representative. (3) Sudden and unexpected emergencies, including, but not limited to, court appearances of the claimant or authorized representative, conflicting schedules of the authorized representative if the conflict is beyond the control of the authorized representative. (4) Unavailability of a witness or evidence, the absence of which would result in serious prejudice to the claimant. (5) An intervening request by the claimant or his or her authorized representative for mediation. (b) Notwithstanding Sections 19130, 19131, and 19132 of the Government Code, the department shall contract for the provision of independent hearing officers. Hearing officers shall have had at least two years of full-time legal training at a California or American Bar Association accredited law school or the equivalent in training and experience as established by regulations to be adopted by the department pursuant to Section 4705. These hearing officers shall receive training in the law and regulations governing services to developmentally disabled individuals and administrative hearings. Training shall include, but not be limited to, the Lanterman Developmental Disabilities Services Act and regulations adopted thereunder, relevant case law, information about services and supports available to persons with developmental disabilities, including innovative services and supports, the standard agreement contract between the department and regional centers and regional center purchase-of-service policies, and information and training on protecting

This section was amended by SB 1630 and eliminates the need for referring to the "Organization of Area Boards."

the rights of consumers at administrative hearings, with emphasis on assisting, where appropriate, those consumers represented by themselves or an advocate inexperienced in administrative hearings in fully developing the administrative record. The State Department of Developmental Services shall seek the advice of the State Council on Developmental Disabilities, ~~the Organization of Area Boards~~, the protection and advocacy agency designated by the Governor in this state to fulfill the requirements and assurances of the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, contained in Chapter ~~144~~ 75 (commencing with Section ~~15001~~ 6000) of Title 42 of the United States Code, the Association of Regional Center Agencies, and other state agencies or organizations and consumers and family members as designated by the department in the development of standardized hearing procedures for hearing officers and training materials and the implementation of training procedures by the department. The department shall provide formal training for hearing officers on at least an annual basis. The training shall be developed and presented by the department, however, the department shall invite those agencies and organizations listed in this subdivision to participate.

(c) The hearing officer shall not be an employee, agent, board member, or contractor of the service agency against whose action the appeal has been filed, or a spouse, parent, child, brother, sister, grandparent, legal guardian, or conservator of the claimant, or any person who has a direct financial interest in the outcome of the fair hearing, or any other interest which would preclude a fair and impartial hearing. (d) The claimant and the service agency shall exchange a list of potential witnesses, the general subject of the testimony of each witness, and copies of all potential documentary evidence at least five calendar days prior to the hearing. The hearing officer may prohibit testimony of a witness that is not disclosed and may prohibit the introduction of documents that have not been disclosed. However, the hearing officer may allow introduction of ~~the~~ such testimony or witness in the interest of justice. (e) The fair hearing shall be held at a time and place reasonably convenient to the claimant and the authorized representative. The claimant or the authorized representative of the claimant and the regional center shall

agree on the location of the fair hearing. (f) Merits of a pending fair hearing shall not be discussed between the hearing officer and a party outside the presence of the other party. (g) The hearing officer shall voluntarily disqualify himself or herself and withdraw from any case in which he or she cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification of the hearing officer by filing an affidavit, prior to the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. The issue shall be decided by the hearing officer. (h) Both parties to the fair hearing shall have the rights specified in subdivision (f) of Section 4701. (i) The fair hearing need not be conducted according to the technical rules of evidence and those related to witnesses. Any relevant evidence shall be admitted. Both parties shall be allowed to submit documents into evidence at the beginning of the hearing. No party shall be required to formally authenticate any document unless the hearing officer determines the necessity to do so in the interest of justice. All testimony shall be under oath or affirmation which the hearing officer is empowered to administer. (j) A service agency shall present its witnesses and all other evidence before the claimant presents his or her case unless the parties agree otherwise or the hearing officer determines that there exists good cause for a witness to be heard out of order. This section does not alter the burden of proof. (k) A recording shall be made of the proceedings before the hearing officer. Any cost of recording shall be borne by the responsible state agency. (l) The fair hearing shall be conducted in the English language. However, if the claimant, the claimant's guardian or conservator, parent of a minor claimant, or authorized representative does not understand English, an interpreter shall be provided by the responsible state agency. (m) The fair hearing shall be open to the public except at the request of the claimant or authorized representative or when personnel matters are being reviewed. (n) The agency awarded the contract for independent hearing officers shall biennially conduct, or cause to be conducted, an evaluation of the hearing officers who conduct hearings under this part. The department shall approve the methodology used to conduct the evaluation. Information and data for this

evaluation shall be solicited from consumers who were claimants in an administrative hearing over the past two years, their family members or authorized representative if involved in the hearing, regional centers, and nonattorney advocates, attorneys who represented either party in an administrative hearing over the past two years, and the organizations identified in subdivision (b). Regional centers shall forward copies of administrative decisions reviewed by the superior court to the department. The areas of evaluation shall include, but not be limited to, the hearing officers' demeanor toward parties and witnesses, conduct of the hearing in accord with fairness and standards of due process, ability to fairly develop the record in cases where consumers represent themselves or are represented by an advocate that does not have significant experience in administrative hearings, use of legal authority, clarity of written decisions, and adherence to the requirements of subdivision (b) of Section 4712.5. The department shall be provided with a copy of the evaluation and shall use the evaluation in partial fulfillment of its evaluation of the contract for the provision of independent hearing officers. A summary of the data collected shall be made available to the public upon request, provided that the names of individual hearing officers and consumers shall not be disclosed.

4781.5. For the 2002-03 fiscal year only, a regional center may not expend any purchase of service funds for the startup of any new program unless the expenditure is necessary to protect the consumer's health or safety or because of other extraordinary circumstances, and the department has granted prior written authorization for the expenditure. This provision shall not apply to any of the following:
(a) The purchase of services funds allocated as part of the department's community placement plan process.
(b) Expenditures for the startup of new programs made pursuant to a contract entered into before July 1, 2002.

This section as added by AB 442 and prohibits the regional center from expending POS funds for new programs except to protect the consumer's health or safety. This does not apply to funds allocated as part of the department's community placement plan process or new programs contracted before July 1, 2002.

~~4847. The State Department of Developmental Services shall coordinate, or require each regional center to coordinate, a meeting within each regional center catchment area between the regional center, the local health facility providers, the State Department of Health Services representatives from the~~

This section was repealed by AB 442.

local district office, and the State Department of Developmental Services center staff. ~~The meeting shall be held at least annually to better coordinate services and supports provided to regional center consumers in licensed health facilities.~~

SEC. 38. As of January 1, 2003, the area boards on developmental disabilities will become a program within the State Council on Developmental Disabilities. As of January 1, 2003, no further expenditures shall be charged against Item 4110-001-0001 of Section 2.00 of the Budget Act of 2002. All remaining area board appropriation authority, including reimbursements for the clients' rights advocacy program, volunteer advocacy services program, and the life quality assessment program pursuant to the Lanterman Act existing interagency agreements with the State Department of Developmental Services, shall be transferred to items in Section 2.00 of the Budget Act of 2002 for which the first four digits are 4100, and the schedule shall be amended accordingly. It is the intent of the Legislature that the funding appropriated for the area boards in the Budget Act of 2002 shall not be reduced as a result of this section.

SB 1630, Sec. 38, transfers area boards to a program within the state council.

SEC. 96. (a) The California Health and Human Services Agency shall develop a comprehensive plan describing the actions that California may take to improve its long-term care system so that its residents have available an array of community care options that allow them to avoid unnecessary institutionalization. The plan shall respond to the decision of the United States Supreme Court in *Olmstead v. L.C.* (1999) 527 U.S. 581 and shall embody the six principles for an "Olmstead Plan" as articulated by the federal center for Medicaid and Medicare services. These principles include: (1) A comprehensive, effectively working plan. (2) A plan development and implementation process that provides for the involvement of consumers and other stakeholders. (3) The development of assessment procedures and practices that prevent or correct current and future unjustified institutionalization of persons with disabilities. (4) An assessment of the current availability of community-

AB 441, Sec. 96, requires the Health and Human Services Agency to develop a long-term care plan for submission to the Legislature on or before April 1, 2003.

integrated services, identification of gaps in service availability, and evaluation of changes that could be made to enable consumers to be served in the most integrated setting possible. (5) The inclusion in the plan of practices by which consumers are afforded the opportunity to make informed choices among the services available to them. (6) Elements in the plan that ensure that services are provided in the most integrated setting appropriate and that the quality of services meets the needs of the consumers.

(b) The plan required under subdivision (a) shall be submitted to the Legislature on or before April 1, 2003.

SEC. 97. It is the intent of the Legislature that a significant portion of funds received in the 2003-04 fiscal year and subsequent fiscal years, due to increased federal financial participation attributable to the medicaid home- and community-based waiver program under Section 1396n of Title 42 of the United States Code or other similar initiatives, shall be used to increase the rates for community-based providers serving individuals with developmental disabilities and other actions related to expanding and improving services and supports. The purpose of these fund adjustments shall be to increase community living options, provide expanded consumer choice, provide for increased health and physical safety, and improve the overall stability of community-based services and supports.

This section was adopted by AB 442 and expresses legislative intent that a significant portion of increasing amounts of funds received due to federal financial participation be used for provider rate increases.

SEC. 98. The State Department of Developmental Services shall ensure that funds appropriated in Item 4300-101-0001 of the Budget Act of 2002 to address concerns regarding the potential under funding of regional center operations shall be used by each regional center toward achieving and maintaining service coordinator caseloads, as contained in subdivision (c) of Section 4640.6 of the Welfare and Institutions Code. In addition, these funds may be used to provide for increased clinical staff as necessary to meet requirements under the federal home- and community-based waiver program (42 U.S.C. Sec. 1396n).

This section was adopted by AB 442 and requires the Department to use specified funds appropriated by the Budget Act of 2002-03 to ensure that service coordinator caseload ratios are maintained.

SEC. 99. The State Department of Developmental Services shall ensure that funds appropriated in Item 4300-101-0001 of

This section was adopted by AB 442 and requires the

the Budget Act of 2002 for the purpose of funding a federal program coordinator position at each regional center will be used only for that purpose. This position shall address issues pertaining to federally funded programs serving individuals with developmental disabilities as appropriate, including the home- and community-based waiver program (42 U.S.C. Sec. 1396n), as well as seeking increased federal financial participation when practicable.

Department to use specified funds appropriated by the Budget Act of 2002-03 to establish a position at each regional center to coordinate responsibilities related to overall management of federal programs.

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