

2005/2006/2007 LEGISLATIVE SESSION

IMPACT
OF

*LEGISLATIVE BILLS
ON SERVICES FOR PEOPLE WITH
DEVELOPMENTAL DISABILITIES*



INTRODUCTION

During the 2005 legislative session, provisions of the Welfare and Institutions Code were amended by five pieces of legislation as follows:

- AB 131 (Chapter 80, Statutes of 2005, effective July 19, 2005) – Budget Committee
- AB 1130 (Chapter 30, Statutes of 2005, effective January 1, 2006) - Ruskin
- AB 1378 (Chapter 538, Statutes of 2005, effective January 1, 2006) – Lieber
- SB 643 (Chapter 551, Statutes of 2005, effective January 1, 2006) - Chesbro
- SB 962 (Chapter 558 , Statutes of 2005, effective January 1, 2006) – Chesbro

This document identifies significant statutory changes enacted during the 2005 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 changes in law outside of the Lanterman Developmental Disabilities Services Act that may impact services or programs for persons with developmental disabilities.

The text is presented in strikeout and underline format. Underlined text is new or amended. 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 131, Chapter 80, Statutes of 2005
Assembly Bill 1130, Chapter 30, Statutes of 2005
Assembly Bill 1378, Chapter 538, Statutes of 2005
Senate Bill 643, Chapter 551, Statutes of 2005
Senate Bill 962, Chapter 558, Statutes of 2005

Welfare and Institutions Code
Division 4.5. Services for the Developmentally Disabled

854.1 (a) It is the intent of the Legislature to ensure continuity of care for clients of Agnews Developmental Center.

(b) In the effort to achieve these goals, it is the intent of the Legislature to seek and implement recommendations that include all of the following services to retain Agnews staff as employees:

(1) Crisis management teams that provide behavioral, medical, and dental treatment, training, and technical assistance.

(2) Specialized services, including adaptive equipment design and fabrication, and medical, dental, psychological, and assessment services. (3) Staff support in community homes to assist individuals with behavioral or psychiatric needs.

(c) As used in this chapter, the terms "mental institution" or "medical facility" also include a developmental services facility.

For the purposes of this chapter "developmental services facility" means any facility or place where a public employee provides developmental services relating to the closure of Agnews Developmental Center.

This section was added to the Government Code by AB 1378 to ensure continuity of care for persons moving from Agnews Developmental Center to the community by retaining existing Agnews staff.

4474.2. Notwithstanding any provision of law to the contrary, the department may operate any facility, provide its employees to assist in the operation of any facility, or provide other necessary services and supports if in the discretion of the department it determines that the activity will assist in meeting the goal of an orderly closure of Agnews Developmental Center. The department may contract with any entity for the use of the department's employees to provide services in furtherance of an orderly closure of Agnews Developmental Center.

This section was added by AB 1378 and grants the department authority to assist in certain activities that allow for an orderly closure of Agnews Developmental Center.

4474.3. The provisions of Section 10411 of the Public Contract Code shall not apply to any person who, in connection with the closure of Agnews Developmental Center, provides developmental services.

This section was added by AB 1378 and exempts any one connected with the Agnews Developmental Center closure from the provisions of Public Contract Code Section 10411.

4519.7. (a) Any regional center employee shall not be liable for civil damages on account of an injury or death resulting from an employee's act or omission where the act or omission was the result of the exercise of the discretion vested in him or her, in good faith, in carrying out the intent of this division, except for acts or omissions of gross negligence or acts or omissions giving rise to a claim under Section 3294 of the Civil Code. This section shall not be applied to provide immunity from liability for any criminal act.

This section was amended by AB 1130 to extend the effective date of this section from 2006 to 2009.

(b) This section is not intended to change, alter, or affect the liability of regional centers, including, but not limited to, the vicarious liability of a regional center due to a negligent employee.

(c) A regional center employee, when participating in filing a complaint or providing information as required by law regarding a consumer's health, safety, or well-being, or participating in a judicial proceeding resulting therefrom, shall be presumed to be acting in good faith, and unless the presumption is rebutted, shall be immune from any liability, civil or criminal, and shall be immune from any penalty, sanction, or restriction that might be incurred or imposed. The presumption established by this subdivision is a presumption affecting the burden of producing evidence.

(d) This section shall apply only to acts or omissions that occur on or after January 1, 2001.

(e) This section shall remain in effect only until January 1, 2009 ~~2006~~, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2009 ~~2006~~, deletes or extends that date.

4643. (a) If assessment is needed, prior to July 1, 2006 ~~2005~~, 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

This section was amended by AB 1130 to amend the date from 2005 to 2006.

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 and after July 1, ~~2006~~ ~~2005~~, 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 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.

4648.4. Notwithstanding any other provision of law or regulation, during the ~~2005-06~~ ~~2004-05~~ fiscal year, no regional center may pay any provider of the following services or supports a rate that is greater than the rate that is in effect on or after June 30, 2004, unless the increase is required by a contract between the regional center and the vendor that is in effect on June 30, 2004, or the regional center demonstrates that the approval is necessary to protect the consumer's health or safety and the department has granted prior written authorization:

This section was amended by AB 131 to extend the date for cap on the payment rate of selected services and supports.

- (a) Supported living services.
- (b) Transportation, including travel reimbursement.
- (c) Socialization training programs.
- (d) Behavior intervention training.
- (e) Community integration training programs.
- (f) Community activities support services.
- (g) Mobile day programs.
- (h) Creative art programs.
- (i) Supplemental day services program supports.
- (j) Adaptive skills trainers.
- (k) Independent living specialists.

4681.5. Notwithstanding any other provision of law or regulation, during the ~~2005-06~~ ~~2004-05~~ fiscal year, no regional center may approve any service level for a residential service provider, as defined in Section 56005 of Title 17 of the California Code of Regulations, if the approval would result in an increase in the rate to be paid to the provider that is greater than the rate that is in effect on or after June 30, ~~2005~~ ~~2004~~, unless the regional center demonstrates to the department that the approval is necessary to protect the consumer's health or safety and the department has granted prior written authorization.

This section was amended by AB 131 to extend for one year the prohibition on service level changes for residential service providers.

4684.50. (a) (1) "Adult Residential Facility for Persons with Special Health Care Needs (ARFPSHN)" means any adult residential facility that provides 24-hour health care and intensive support services in a homelike setting that is licensed to serve up to five adults with developmental disabilities as defined in Section 4512.

This section was added by SB 962 to define terms.

(2) For purposes of this article, an ARFPSHN may be established in a facility financed pursuant to Section 4688.5.

(b) "Consultant" means a person professionally qualified by training and experience to give expert advice, information, training, or to provide health-related assessments and interventions specified in a consumer's individual health care plan.

(c) "Direct care personnel" means all personnel who directly provide program or nursing services to consumers. Administrative and licensed personnel shall be considered direct care personnel when directly providing program or nursing services to clients. Consultants shall not be considered direct care personnel.

(d) "Individual health care plan" means the plan that identifies and documents the health care and intensive support service needs of a consumer.

(e) "Individual health care plan team" means those individuals who develop, monitor, and revise the individual health care plan for consumers residing in an Adult Residential Facility for Persons with Special Health Care Needs. The team shall, at a minimum, be composed of all of the following individuals:

(1) Regional center service coordinator and other regional center representative, as necessary.

(2) Consumer, and, where appropriate, his or her parents, legal guardian or conservator, or authorized representative.

(3) Consumer's primary care physician, or other physician as designated by the regional center.

(4) ARFPSHN administrator.

(5) ARFPSHN registered nurse.

(6) Others deemed necessary for developing a comprehensive

and effective plan.

(f) "Intensive support needs" means the consumer requires physical assistance in performing four or more of the following activities of daily living:

- (1) Eating.
- (2) Dressing.
- (3) Bathing.
- (4) Transferring.
- (5) Toileting.
- (6) Continence.

(g) "Special health care needs" means the consumer has health conditions that are predictable and stable, as determined by the individual health care plan team, and for which the individual requires nursing supports for any of the following types of care:

- (1) Nutrition support, including total parenteral feeding and gastrostomy feeding, and hydration.
- (2) Cardiorespiratory monitoring.
- (3) Oxygen support, including continuous positive airway pressure and bilevel positive airway pressure, and use of other inhalation-assistive devices.
- (4) Nursing interventions for tracheostomy care and suctioning.
- (5) Nursing interventions for colostomy, ileostomy, or other medical or surgical procedures.
- (6) Special medication regimes including injection and intravenous medications.
- (7) Management of insulin-dependent diabetes.
- (8) Manual fecal impaction, removal, enemas, or suppositories.
- (9) Indwelling urinary catheter/catheter procedure.
- (10) Treatment for staphylococcus infection.
- (11) Treatment for wounds or pressure ulcers (stages 1 and 2).
- (12) Postoperative care and rehabilitation.
- (13) Pain management and palliative care.
- (14) Renal dialysis.

4684.53. (a) The State Department of Developmental Services and the State Department of Social Services shall jointly implement a pilot project to test the effectiveness of providing special health care and intensive support services to adults in homelike community settings.

(b) The pilot project shall be implemented through the following regional centers only:

- (1) The San Andreas Regional Center.
- (2) The Regional Center of the East Bay.
- (3) The Golden Gate Regional Center.

(c) The regional centers participating in this pilot project may contract for an aggregate total of services for no more than 120

This section was added by SB 962 to require the implementation of a pilot project for ARFPSHNs/SB 962 homes, and establishes standards for implementing the pilot project in three designated regional center catchment areas.

persons in an ARFPSHN.

(d) Each ARFPSHN shall possess a community care facility license issued pursuant to Article 9 (commencing with Section 1567.50) of Chapter 3 of Division 2 of the Health and Safety Code, and shall be subject to the requirements of Chapter 1 (commencing with Section 80000) of Division 6 of Title 22 of the California Code of Regulations, except for Article 8 (commencing with Section 80090).

(e) For purposes of this article, a health facility licensed pursuant to subdivision (e) or (h) of Section 1250 may place its licensed bed capacity in voluntary suspension for the purpose of using the facility to operate an ARFPSHN if the facility is selected to participate in the pilot project pursuant to Section 4684.58. Consistent with subdivision (a) of Section 4684.50, any facility selected to participate in the program shall be licensed to serve up to five adults. A facility's bed capacity shall not be placed in voluntary suspension until all consumers residing in the facility under the license to be suspended have been relocated. No consumer may be relocated unless it is reflected in the consumer's individual program plan developed pursuant to Sections 4646 and 4646.5.

(f) Each ARFPSHN shall be subject to the requirements of Subchapters 5 through 9 of Chapter 1 of, and Subchapters 2 and 4 of Chapter 3 of, Division 2 of Title 17 of the California Code of Regulations.

(g) Each ARFPSHN shall ensure that an operable automatic fire sprinkler system is installed and maintained.

(h) Each ARFPSHN shall have an operable automatic fire sprinkler system that is approved by the State Fire Marshal and that meets the National Fire Protection Association (NFPA) 13D standard for the installation of sprinkler systems in single- and two-family dwellings and manufactured homes. A local jurisdiction shall not require a sprinkler system exceeding this standard by amending the standard or by applying standards other than NFPA 13D. A public water agency shall not interpret this section as changing the status of a facility from a residence entitled to residential water rates, nor shall a new meter or larger connection pipe be required of the facility.

(i) Each ARFPSHN shall provide an alternative power source to operate all functions of the facility for a minimum of six hours in the event the primary power source is interrupted. The alternative power source shall comply with Section 517-50 of the California Electric Code. The alternative power source shall be maintained in safe operating condition, and shall be tested every 14 days under the full load condition for a minimum of 10 minutes. Written records of inspection, performance, exercising period, and repair of the

alternative power source shall be regularly maintained on the premises and available for inspection by the State Department of Developmental Services.

4684.55. (a) No regional center may pay a rate to any ARFPSHN for any consumer that exceeds the average annual cost of serving a consumer at Agnews Developmental Center, as determined by the State Department of Developmental Services.

(b) The payment rate for ARFPSHN services shall be negotiated between the regional center and the ARFPSHN, and shall be paid by the regional center under the service code "Specialized Residential Facility (Habilitation)."

(c) The established rate for a full month of service shall be made by the regional center when a consumer is temporarily absent from the ARFPSHN 14 days or less per month. When the consumer's temporary absence is due to the need for inpatient care in a health facility, as defined in subdivision (a), (b), or (c) of Section 1250 of the Health and Safety Code, the regional center shall continue to pay the established rate as long as no other consumer occupies the vacancy created by the consumer's temporary absence, or until the individual health care plan team has determined that the consumer will not return to the facility. In all other cases, the established rate shall be prorated for a partial month of service by dividing the established rate by 30.44 then by multiplying the quotient by the number of days the consumer resided in the facility.

4684.58. The regional center may recommend for participation, the State Department of Developmental Services, an applicant for this pilot project when the applicant meets all of the following requirements and has been selected through a request for proposals process issued by one or more of the three participating regional centers:

(a) The applicant employs or contracts with a program administrator who has a successful record of administering residential services for at least two years, as evidenced by substantial compliance with the applicable state licensing requirements.

(b) The applicant prepares and submits, to the regional center, a complete facility program plan that includes, but is not limited to, all of the following:

- (1) The total number of the consumers to be served.
- (2) A profile of the consumer population to be served, including their health care and intensive support needs.
- (3) A description of the program components, including a description of the health care and intensive support services to be

This section was added by SB 962 to establish the rate development and payment processes for ARFPSHNs/SB 962 homes.

This section was added by SB 962 and sets forth the requirement for an RFP process to select pilot project participants. This section also requires the applicant to submit a program plan and specifies what information must be included in the program plan.

provided.

(4) A week's program schedule, including proposed consumer day and community integration activities.

(5) A week's proposed program staffing pattern, including licensed, unlicensed, and support personnel and the number and distribution of hours for such personnel.

(6) An organizational chart, including identification of lead and supervisory personnel.

(7) The consultants to be utilized, including their professional disciplines and hours to be worked per week or month, as appropriate.

(8) The plan for accessing and retaining consultant and health care services, including assessments, in the areas of physical therapy, occupational therapy, respiratory therapy, speech pathology, audiology, pharmacy, dietary/nutrition, dental, and other areas required for meeting the needs identified in consumers' individual health care plans.

(9) A description, including the size, layout, location, and condition of the proposed home.

(10) A description of the equipment and supplies available, or to be obtained, for programming and care.

(11) The type, location, and response time of emergency medical service personnel.

(12) The in-service training program plan for at least the next 12 months.

(13) The plan for ensuring that outside services are coordinated, integrated, and consistent with those provided by the ARFPSHN.

(14) Written certification that an alternative power system required by subdivision (i) of Section 4684.53 meets the manufacturer's recommendations for installation and operation.

(c) Submits a proposed budget itemizing direct and indirect costs, total costs, and the rate for services.

(d) Certifies, in writing, that the applicant has the ability to comply with all of the requirements of Section 1520 of the Health and Safety Code.

(e) The regional center shall provide all documentation specified in subdivisions (b) to (d), inclusive, of Section 4684.58 and a letter recommending program certification to the State Department of Developmental Services.

(f) The State Department of Developmental Services shall either approve or deny the recommendation and transmit its written decision to the regional center and to the State Department of Social Services within 30 days of its decision. The decision of the State Department of Developmental Services not to approve an application for program certification shall be the final administrative decision.

(g) Any change in the ARFPSHN operation that alters the contents of the approved program plan shall be reported to the State Department of Developmental Services and the contracting regional center, and approved by both agencies, prior to implementation.

4684.60. The vendoring regional center shall, before placing any consumer into an ARFPSHN, ensure that the ARFPSHN has a license issued by the State Department of Social Services for not more than five adults and a contract with the regional center that includes, at a minimum, all of the following:

- (a) The names of the regional center and the licensee.
- (b) The purpose of the pilot project.
- (c) A requirement that the contractor shall comply with all applicable statutes and regulations, including Section 4681.1.
- (d) The effective date and termination date of the contract.
- (e) A requirement that, under no circumstances, shall the contract extend beyond the stated termination date, which shall not be longer than the pilot legislation end date of January 1, 2010.
- (f) The definition of terms.
- (g) A requirement that the execution of any amendment or modification to the contract be in accordance with all applicable federal and state statutes and regulations and be by mutual agreement of both parties.
- (h) A requirement that the licensee and the agents and employees of the licensee, in the performance of the contract, shall act in an independent capacity, and not as officers or employees or agents of the regional center.
- (i) A requirement that the assignment of the contract for consumer services shall not be allowed.
- (j) The rate of payment per consumer.
- (k) Incorporation, by reference, of the ARFPSHN's approved program plan.
- (l) A requirement that the contractor verify, and maintain for the duration of the project, possession of commercial general liability insurance in the amount of at least one million dollars (\$1,000,000) per occurrence.
- (m) Contractor performance criteria.
- (n) An agreement to provide, to the evaluation contractor engaged pursuant to subdivision (a) of Section 4684.74, all information necessary for evaluating the project.

This section was added by SB 962 to specify that each ARFPSHN be licensed by the Department of Social Services. It also requires a contract between the regional center and the ARFPSHN and specifies what information must be included in the contract.

4684.63. (a) Each ARFPSHN shall do all of the following:
(1) Meet the minimum requirements for a Residential Facility Service Level 4-i pursuant to Sections 56004 and 56013 of Title 17 of the California Code of Regulations, and ensure that all of the

This section was added by SB 962 to specify the staffing standards for ARFPSHN/SB 962 home

following conditions are met:

(A) That a licensed registered nurse, licensed vocational nurse, or licensed psychiatric technician, is awake and on duty 24-hours per day, seven days per week.

(B) That a licensed registered nurse is awake and on duty at least eight hours per person, per week.

(C) That at least two staff on the premises are awake and on duty when providing care to four or more consumers.

(2) Ensure the consumer remains under the care of a physician at all times and is examined by the primary care physician at least once every 60 days, or more often if required by the consumer's individual health care plan.

(3) Ensure that an administrator is on duty at least 20 hours per week to ensure the effective operation of the ARFPSHN.

(4) The administrator shall have at least one year of administrative and supervisory experience in a licensed residential program for persons with developmental disabilities and shall meet one or more of the following qualifications:

(A) Be a licensed registered nurse.

(B) Be a licensed nursing home administrator.

(C) Be a licensed psychiatric technician with at least five years of experience serving individuals with developmental disabilities.

(D) Be an individual with a bachelors degree in the health or human services field and two years experience working in a licensed residential program for persons with developmental disabilities and special health care needs.

(b) The regional center may require an ARFPSHN to provide additional professional, administrative, or supportive personnel whenever the regional center determines, in consultation with the individual health care plan team, that additional personnel are needed to provide for the health and safety of consumers.

(c) ARFPSHNs may utilize appropriate staff from Agnews Developmental Center.

(d) All direct care personnel shall be subject to the training requirements specified in Section 4695.2.

4684.65. (a) A regional center shall not place, or fund the placement for, any consumer in an ARFPSHN until the individual health care plan team has prepared a written individual health care plan that can be fully and immediately implemented upon the consumer's placement.

(b) (1) An ARFPSHN shall only accept, for initial admission, consumers who meet the following requirements:

(A) Reside at Agnews Developmental Center at the time of the proposed placement.

(B) Have an individual program plan that specifies placement in

staff.

This section was added by SB 962 to require each consumer to have a written individual health care plan prepared and ready to be implemented upon placement. This section also establishes standards for who can be admitted to an

an ARFPSHN.

ARFPSHN/SB 962 home.

(C) Have special health care and intensive support needs.

(2) Except as provided in paragraph (3), when a vacancy in an ARFPSHN occurs due to the permanent relocation or death of a resident, the vacancy may only be filled by a consumer who meets the requirements of paragraph (1).

(3) If there is no resident residing at Agnews Developmental Center who meets the requirements of subparagraphs (B) and (C) of paragraph (1), a vacancy may be filled by a consumer who is residing at another developmental center or who is at risk of placement into a developmental center, as determined by the regional center, and who meets the requirements of subparagraphs (B) and (C) of paragraph (1).

(c) The ARFPSHN shall not admit a consumer if the individual health care plan team determines that the consumer is likely to exhibit behaviors posing a threat of substantial harm to others, or has a serious health condition that is unpredictable or unstable. A determination that the individual is a threat to others may only be based on objective evidence or recent behavior and a determination that the threat cannot be mitigated by reasonable interventions.

4684.68. (a) The individual health care plan shall include, at a minimum, all of the following:

(1) An evaluation of the consumer's current health.

(2) A description of the consumer's ability to perform the activities of daily living.

(3) A list of all current prescription and nonprescription medications the consumer is using.

(4) A list of all health care and intensive support services the consumer is currently receiving or may need upon placement in the ARFPSHN.

(5) A written statement from the consumer's primary care physician familiar with the health care needs of the consumer, or other physician as designated by the regional center, that the consumer's medical condition is predictable and stable, and that the consumer's level of care is appropriate for the ARFPSHN.

(6) Provision for the consumer to be examined by his or her primary care physician at least once every 60 days, or more frequently if indicated.

(7) A list of the appropriate professionals assigned to provide the health care as described in the plan.

(8) A description of, and plan for providing, any training required for all direct care personnel to meet individuals' needs.

(9) The name of the individual health care plan team member,

This section was added by SB 962 and specifies what must be included in the individual health care plan. This section also establishes standards for administration of medications.

and an alternate designee, who is responsible for day-to-day monitoring of the consumer's health care plan and ensuring its implementation as written.

(10) Identification of the legally authorized representative to make health care decisions on the consumer's behalf, if the consumer lacks the capacity to give informed consent.

(11) The name and telephone number of the person or persons to notify in case of an emergency.

(12) The next meeting date of the individual health care plan team, which shall be at least every six months, to evaluate and update the individual health care plan.

(b) In addition to Section 80075 of Title 22 of the California Code of Regulations, the ARFPSHN shall comply with all of the following requirements:

(1) Medications shall be given only on the order of a person lawfully authorized to prescribe.

(2) Medications shall be administered as prescribed and shall be recorded in the consumer record. The name and title of the person administering the medication or treatment, and the date, time, and dosage of the medication administered shall be recorded. Initials may be used provided the signature of the person administering the medication or treatment is recorded on the medication or treatment record.

(3) Preparation of dosages for more than one scheduled administration time shall not be permitted.

(4) Persons administering medications shall confirm each consumer's identity prior to the administration.

(5) Medications shall be administered within two hours after dosages are prepared and shall be administered by the same person who prepared the dosages. Dosages shall be administered within one hour of the prescribed time unless otherwise indicated by the prescriber.

(6) All medications shall be administered only by those persons specifically authorized to do so by their respective scope of practice.

(7) No medication shall be administered to or used by any consumer other than the consumer for whom the medication was prescribed.

(8) Medication errors and adverse drug reactions shall be recorded and reported immediately to the practitioner who ordered the drug or another practitioner responsible for the medical care of the consumer. Minor adverse reactions which are identified in the literature accompanying the product as a usual or common side effect, need not be reported to the practitioner immediately, but in all cases shall be recorded in the consumer's record. Medication errors include, but are not limited to, the failure to administer a drug

ordered by a prescriber within one hour of the time prescribed, administration of any drugs other than prescribed or the administration of a dose not prescribed.

4684.70. (a) The State Department of Social Services, in administering the licensing program, shall not have any responsibility for evaluating consumers' level of care or health care provided by ARFPSHN. Any suspected deficiencies in a consumer's level of care or health care identified by the State Department of Social Services' personnel shall be reported immediately to the appropriate regional center and the State Department of Developmental Services for investigation.

(b) The regional center shall have responsibility for monitoring and evaluating the implementation of the consumer's individual plan objectives, including, but not limited to, the health care and intensive support service needs identified in the consumer's individual health care plan and the consumer's integration and participation in community life.

(c) For each consumer placed in an ARFPSHN, the regional center shall assign a service coordinator pursuant to subdivision (b) of Section 4647.

(d) A regional center licensed registered nurse shall visit, with or without prior notice, the consumer, in person, at least monthly in the ARFPSHN, or more frequently if specified in the consumer's individual health care plan. At least four of these visits, annually, shall be unannounced.

(e) The State Department of Developmental Services shall monitor and ensure the regional centers' compliance with the requirements of this article. The monitoring shall include onsite visits to all the ARFPSHNs at least every six months for the duration of the pilot project.

This section was added by SB 962 to specify the monitoring responsibilities of the Departments of Social Services, Developmental Services, and regional centers.

4684.73. (a) In addition to any other contract termination provisions, a regional center may terminate its contract with an ARFPSHN when the regional center determines that the ARFPSHN is unable to maintain substantial compliance with state laws, regulations, or its contract with the regional center, or the ARFPSHN demonstrates an inability to ensure the health and safety of the consumers.

(b) The ARFPSHN may appeal a regional center's decision to terminate its contract by sending, to the executive director of the contracting regional center, a detailed statement containing the reasons and facts demonstrating why the termination is inappropriate. The appeal must be received by the regional center within 10 working days from the date of the letter terminating the

This section was added by SB 962 to address contract termination when the ARFPSHN/SB 962 home fails to maintain compliance with state laws, regulations, contract provisions, or the ARFPSHN/SB 962 home is unable to ensure the health and safety of consumers. This section also establishes an appeal

contract. The executive director shall respond with his or her decision within 10 working days of the date of receipt of the appeal from the ARFPSHN. The executive director shall submit his or her decision to the State Department of Developmental Services on the same date that it is signed. The decision of the executive director shall be the final administrative decision.

process for contract termination.

(c) The Director of Developmental Services may rescind an ARFPSHN's program certification when, in his or her sole discretion, an ARFPSHN does not maintain substantial compliance with an applicable statute, regulation, or ordinance, or cannot ensure the health and safety of the consumers. The decision of the Director of Developmental Services shall be the final administrative decision. The Director of Developmental Services shall transmit his or her decision rescinding an ARFPSHN's program certification to the State Department of Social Services and the regional center with his or her recommendation as to whether to revoke the ARFPSHN's license.

(d) In addition to complying with Section 1524.1 of the Health and Safety Code, any ARFPSHN licensee that is unable to continue to provide services to consumers in the facility shall, upon the date on which a new ARFPSHN license is issued pursuant to Sections 1520 and 1525 of the Health and Safety Code, arrange with the regional center or department the transfer of all information, property, and documents related to the operation of the facility and the provision of services to the consumers. The department or the regional center shall take all steps permitted by this article to ensure that at all times the consumers who are residing in the facility receive services set forth in their individual health care plans.

4684.74. (a) By July 1, 2006, the State Department of Developmental Services shall contract with an independent agency or organization to evaluate the pilot project and prepare a written report of its findings. The scope of services for the contractor shall be jointly prepared by the State Department of Developmental Services, the State Department of Social Services, and the State Department of Health Services and, at a minimum, shall address all of the following:

This section was added by SB 962 to require an evaluation of the pilot project and specifies what the scope of services must include.

(1) The number, business status, and location of all the ARFPSHNs.

(2) The number and characteristics of the consumers served.

(3) The effectiveness of the pilot project in addressing consumers' health care and intensive support needs.

(4) The extent of consumers' community integration and satisfaction.

(5) The consumers' access to, and quality of, community-based

health care and dental services.

(6) The types, amounts, qualifications, and sufficiency of staffing.

(7) The overall impressions, problems encountered, and satisfaction with the ARFPSHN service model by ARFPSHN employees, regional center participants, state licensing and monitoring personnel, and consumers and families.

(8) The costs of all direct, indirect, and ancillary services.

(9) An analysis and summary findings of all ARFPSHN consumer special incident reports and unusual occurrences reported during the evaluation period.

(10) The recommendations for improving the ARFPSHN service model.

(11) The cost-effectiveness of the ARFPSHN model of care compared with other existing public and private models of care serving similar consumers.

(b) The contractor's written report shall be submitted to the State Department of Developmental Services, the State Department of Social Services, the State Department of Health Services. The State Department of Developmental Services shall submit the report to the appropriate fiscal and policy committees of the Legislature by January 1, 2009.

4684.75. (a) The State Department of Developmental Services may adopt emergency regulations to implement this article. The adoption, amendment, repeal, or readoption of a regulation authorized by this section is deemed to be necessary for the immediate preservation of the public peace, health and safety, or general welfare, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the State Department of Developmental Services is hereby exempted from the requirement that it describe specific facts showing the need for immediate action. A certificate of compliance for these implementing regulations shall be filed within 24 months following the adoption of the first emergency regulations filed pursuant to this section.

(b) This article shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute extends or deletes that date.

(c) This article shall only be implemented to the extent that funds are made available through an appropriation in the annual Budget Act.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the

This section was added by SB 962 to authorize the Department of Developmental Services to adopt emergency regulations, if deemed necessary.

Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

~~4685.5. (a) Notwithstanding any other provision of law, commencing January 1, 1999, the department shall conduct a pilot project under which funds shall be allocated for local self-determination pilot programs that will enhance the ability of a consumer and his or her family to control the decisions and resources required to meet all or some of the objectives in his or her individual program plan.~~

~~(b) Local self-determination pilot programs funded pursuant to this section may include, but not be limited to, all of the following:~~

~~(1) Programs that provide for consumer and family control over which services best meet their needs and the objectives in the individual program plan.~~

~~(2) Programs that provide allowances or subsidies to consumers and their families.~~

~~(3) Programs providing for the use of debit cards.~~

~~(4) Programs that provide for the utilization of parent vendors, direct pay options, individual budgets for the procurement of services and supports, alternative case management, and vouchers.~~

~~(5) Wraparound programs.~~

~~(c) The department shall allow the continuation of the existing pilot project in five regional center catchment areas and shall expand the pilot project to other regional center catchment areas only when consistent with federal approval of a self-determination waiver.~~

~~The department may approve additional regional center proposals to offer self-determination or self-directed services to consumers that meet criteria established by the department and that demonstrate purchase-of-services savings are achieved in the aggregate and have no impact on the General Fund.~~

~~(d) Funds allocated to implement this section may be used for administrative and evaluation costs. Purchase-of-services costs shall be based on the estimated annual service costs associated with each participating consumer and family. Each proposal shall include a budget outlining administrative, service, and evaluation components.~~

~~(e) Pilot projects shall be conducted in the following regional center catchment areas:~~

~~(1) Tri-Counties Regional Center.~~

~~(2) Eastern Los Angeles Regional Center.~~

~~(3) Redwood Coast Regional Center.~~

~~(4) Kern Regional Center.~~

~~(5) San Diego Regional Center.~~

This section was repealed by AB 131 due to statutory establishment of the self-directed services program.

~~(f) Each pilot operating area receiving funding under this section shall demonstrate joint regional center and area board support for the local self-determination pilot program, and shall establish a local advisory committee, appointed jointly by the regional center and area board, made up of consumers, family members, advocates, and community leaders and that shall reflect the multicultural diversity and geographic profile of the catchment area.~~

~~The local advisory committee shall review the development and ongoing progress of the local self-determination pilot program and may make ongoing recommendations for improvement to the regional center.~~

4688.5. (a) Notwithstanding any other provision of law to the contrary, the department may approve a proposal or proposals by Golden Gate Regional Center, Regional Center of the East Bay, and San Andreas Regional Center to provide for, secure, and assure the full payment of a lease or leases on housing, developed pursuant to this section, based on the level of availability for occupancy in each home, if all of the following conditions are met:

(1) The acquired or developed real property is occupied by available for occupancy by individuals eligible for regional center services and is integrated with housing for people without disabilities.

(2) The regional center has approved the proposed ownership entity, management entity, and developer or development entity for each project, and, prior to granting the approval, has consulted with the department and has provided to the department a proposal that includes the credentials of the proposed entities.

(3) The costs associated with the proposal are reasonable.

(4) The proposal includes a plan for a transfer at a time certain of the real property's ownership to a nonprofit entity to be approved by the regional center.

(b) Prior to approving a regional center proposal pursuant to subdivision (a), the department, in consultation with the California Housing Finance Agency and the Department of Housing and Community Development shall review all of the following:

(1) The terms and conditions of the financing structure for acquisition and/or development of the real property.

(2) Any and all agreements that govern the real property's ownership, occupancy, maintenance, management, and operation, to ensure that the use of the property is maintained for the benefit of persons with developmental disabilities.

(c) No sale encumbrance, hypothecation, assignment, refinancing, pledge, conveyance, exchange or transfer in any other

This section was amended by SB 643 and makes nonsubstantive technical changes to the text.

form of the real property, or of any of its interest therein, shall occur without the prior written approval of the department and the Health and Human Services Agency.

(d) Notice of the restrictions pursuant to this section shall be recorded against the acquired or developed real property subject to this section.

(e) At least 45 days prior to granting approval under subdivision(c), the department shall provide notice to the chairs and vice chairs of the fiscal committees of the Assembly and the Senate, the Secretary of the Health and Human Services Agency, and the Director of Finance.

(f) The regional center shall not be eligible to acquire or develop real property for the purpose of residential housing.

4691.6. (a) Notwithstanding any other provision of law or regulation, during the 2005-06 ~~2004-05~~ fiscal year, the department may not establish any permanent payment rate for a community-based day program or in-home respite service agency provider that has a temporary payment rate in effect on June 30, 2005 ~~2004~~, if the permanent payment rate would be greater than the temporary payment rate in effect on or after June 30, 2005 ~~2004~~, unless the regional center demonstrates to the department that the permanent payment rate is necessary to protect the consumers' health or safety.

This section was amended by AB 131 to extend for one year the rate freeze for community-based day program providers or in-home respite providers.

(b) Notwithstanding any other provision of law or regulation, during the 2005-06 ~~2004-05~~ fiscal year, neither the department nor any regional center may approve any program design modification or revendorization for a community-based day program or in-home respite service agency provider that would result in an increase in the rate to be paid to the vendor from the rate that is in effect on or after June 30, 2005 ~~2004~~, unless the regional center demonstrates that the program design modification or revendorization is necessary to protect the consumers' health or safety and the department has granted prior written authorization.

(c) Notwithstanding any other provision of law or regulation, during the 2005-06 ~~2004-05~~ fiscal year, the department may not approve an anticipated rate adjusted for a community-based day program or in-home respite service agency provider that would result in an increase in the rate to be paid to the vendor from the rate that is in effect on or after June 30, 2005 ~~2004~~, unless the regional center demonstrates that the anticipated rate adjustment is necessary to protect the consumers' health or safety.

(d) Notwithstanding any other provision of law or regulation, during the 2005-06 ~~2004-05~~ fiscal year, the department may not approve any rate adjustment for a habilitation services program that would result in an increase in the rate to be paid to the vendor

from the rate that is in effect on or after June 30, ~~2005~~ 2004, unless the regional center demonstrates that the rate adjustment is necessary to protect the consumers' health and safety and the department has granted prior written authorization.

4781.5. For the ~~2005-06~~ ~~2004-05~~ and ~~2006-06~~ fiscal years 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.

4851. The definitions contained in this chapter shall govern the construction of this chapter, with respect to habilitation services provided through the regional center, and unless the context requires otherwise, the following terms shall have the following meanings:

(a) "Habilitation services" means community-based services purchased or provided for adults with developmental disabilities, including services provided under the Work Activity Program and the Supported Employment Program, to prepare and maintain them at their highest level of vocational functioning, or to prepare them for referral to vocational rehabilitation services.

(b) "Individual program plan" means the overall plan developed by a regional center pursuant to Section 4646.

(c) "Individual habilitation service plan" means the service plan developed by the habilitation service vendor to meet employment goals in the individual program plan.

(d) "Department" means the State Department of Developmental Services.

(e) "Work activity program" includes, but is not limited to, sheltered workshops or work activity centers, or community-based work activity programs certified pursuant to subdivision (f) or accredited by CARF, the Rehabilitation Accreditation Commission.

(f) "Certification" means certification procedures developed by the Department of Rehabilitation.

(g) "Work activity program day" means the period of time during which a Work Activity Program provides services to consumers.

(h) "Full day of service" means, for purposes of billing, a day in which the consumer attends a minimum of the declared and approved work activity program day, less 30 minutes, excluding the

This section was amended by AB 131 to extend to Fiscal Year 2005-06 the prohibition of expending any POS funds for the startup of new programs unless necessary to protect the consumer's health or safety.

lunch period.

(i) "Half day of service" means, for purposes of billing, any day in which the consumer's attendance does not meet the criteria for billing for a full day of service as defined in subdivision (g), and the consumer attends the work activity program not less than two hours, excluding the lunch period.

(j) "Supported employment program" means a program that meets the requirements of subdivisions (n) to (s), inclusive.

(k) "Consumer" means any adult who receives services purchased under this chapter.

(l) "Accreditation" means a determination of compliance with the set of standards appropriate to the delivery of services by a work activity program or supported employment program, developed by CARF, the Rehabilitation Accreditation Commission, and applied by the commission or the department.

(m) "CARF" means CARF the Rehabilitation Accreditation Commission.

(n) "Supported employment" means paid work that is integrated in the community for individuals with developmental disabilities.

(o) "Integrated work" means the engagement of an employee with a disability in work in a setting typically found in the community in which individuals interact with individuals without disabilities other than those who are providing services to those individuals, to the same extent that individuals without disabilities in comparable positions interact with other persons.

(p) "Supported employment placement" means the employment of an individual with a developmental disability by an employer in the community, directly or through contract with a supported employment program. This includes provision of ongoing support services necessary for the individual to retain employment.

(q) "Allowable supported employment services" means the services approved in the individual program plan and specified in the individual habilitation service plan for the purpose of achieving supported employment as an outcome, and may include any of the following:

(1) Job development, to the extent authorized by the regional center.

(2) Program staff time for conducting job analysis of supported employment opportunities for a specific consumer.

(3) Program staff time for the direct supervision or training of a consumer or consumers while they engage in integrated work unless other arrangements for consumer supervision, including, but not limited to, employer supervision reimbursed by the supported employment program, are approved by the regional center.

(4) Community-based training in adaptive functional and social

skills necessary to ensure job adjustment and retention.

(5) Counseling with a consumer's significant other to ensure support of a consumer in job adjustment.

(6) Advocacy or intervention on behalf of a consumer to resolve problems affecting the consumer's work adjustment or retention.

(7) Ongoing support services needed to ensure the consumer's retention of the job.

(r) "Group services" means job coaching in a group supported employment placement at a job coach-to-consumer ratio of not less than one-to-~~three~~ ~~four~~ nor more than one-to-eight where services to a minimum of ~~three~~ ~~four~~ consumers are funded by the regional center or the Department of Rehabilitation. For consumers receiving group services, ongoing support services shall be limited to job coaching and shall be provided at the worksite.

(s) "Individualized services" means job coaching and other supported employment services for regional center-funded consumers in a supported employment placement at a job coach-to-consumer ratio of one-to-one, and that decrease over time until stabilization is achieved. Individualized services may be provided on or off the jobsite.

This section was amended by AB 131 to allow for a lower coach-to-consumer ratio.

4685.7. (a) Contingent upon approval of a federal waiver, the Self-Directed Services Program (SDS Program) is hereby established and shall be available in every regional center catchment area to provide participants, within an individual budget, greater control over needed services and supports. The Self-Directed Services Program shall be consistent with the requirements set forth in this section.

In order to provide opportunities to participate in the program, the department shall adopt regulations, consistent with federal law, to implement the procedures set forth in this section.

(b) For purposes of this section, the following definitions shall apply:

(1) "Financial management services" means a service or function that assists the participant to manage and direct the distribution of funds contained in the individual budget. This may include, but is not limited to, bill paying services and activities that facilitate the employment of service workers by the participant, including, but not limited to, federal, state, and local tax withholding payments, unemployment compensation fees, setting of wages and benefits, wage settlements, fiscal accounting, and expenditure reports. The department shall establish specific qualifications which shall be

This section was added by AB 131 to establish the Self-Directed Services (SDS) Program; defines terms used in the program; and, establishes program standards.

required of a financial management services provider.

(2) "Supports brokerage" means a service or function that assists participants in making informed decisions about the individual budget, and assists in locating, accessing and coordinating services consistent with and reflecting a participant's needs and preferences. The service is available to assist in identifying immediate and long-term needs, developing options to meet those needs, participating in the person-centered planning process and development of the individual program plan, and obtaining identified supports and services.

(3) "Supports broker" means a person, selected and directed by the participant, who fulfills the supports brokerage service or function and assists the participant in the SDS Program. Specific qualifications shall be established by the department and required of a supports broker provider.

(4) "Waiver" means a waiver of federal law pursuant to Section 1396n of Title 42 of the United States Code.

(5) "Independence Plus Self-Directed (IPSD) Waiver Program" or "Self-Directed Waiver Program" means a federal waiver to the state's Medicaid plan to allow a person with developmental disabilities who needs or requires long-term supports and services, and when appropriate, the person's family, greater opportunity to control his or her own health and well-being by utilization of self-directed services.

(6) "Self-directed services" or "SDS" means a voluntary delivery system consisting of a defined and comprehensive mix of services and supports, selected and directed by a participant, in order to meet all or some of the objectives in his or her individual program plan. Self-directed services are designed to assist the participant to achieve personally defined outcomes in inclusive community settings.

Self-directed services shall include, but are not limited to, all of the following:

- (A) Home health aide services.
- (B) Supported employment and prevocational services.
- (C) Respite services.
- (D) Supports broker functions and services.
- (E) Financial management services and functions.
- (F) Environmental accessibility adaptations.
- (G) Skilled nursing.
- (H) Transportation.
- (I) Specialized medical equipment and supplies.
- (J) Personal emergency response system.
- (K) Integrative therapies.

- (L) Vehicle adaptations.
- (M) Communication support.
- (N) Crises intervention.
- (O) Nutritional consultation.
- (P) Behavior intervention services.
- (Q) Specialized therapeutic services.
- (R) Family assistance and support.
- (S) Housing access supports.
- (T) Community living supports, including, but not limited to, socialization, personal skill development, community participation, recreation, leisure, home and personal care.
- (U) Advocacy services.
- (V) Individual training and education.
- (W) Participant-designated goods and services.
- (X) Training and education transition services.

The department shall include all of the services and supports listed in this paragraph in the IPSD Waiver Program application. Notwithstanding this paragraph, only services and supports included in an approved IPSD Waiver shall be funded through the SDS Program.

(7) "Advocacy services" means services and supports that facilitate the participant in exercising his or her legal, civil and service rights to gain access to generic services and benefits that the participant is entitled to receive. Advocacy services shall only be provided when other sources of similar assistance are not available to the participant, and when advocacy is directed towards obtaining generic services.

(8) "Individual budget" means the amount of funding available to the participant for the purchase of services and supports necessary to implement an individual program plan. The individual budget shall be constructed using a fair, equitable, and transparent methodology.

(9) "Risk pool" means an account that is available for use in addressing the unanticipated needs of participants in the SDS Program.

(10) "Participant" means an individual, and when appropriate, his or her parents, legal guardian or conservator, or authorized representative, who have been deemed eligible for, and have voluntarily agreed to participate in, the SDS Program.

(c) Participation in the SDS Program is fully voluntary. A participant may choose to participate in, and may choose to leave, the SDS Program at any time. A regional center may not require participation in the SDS Program as a condition of eligibility for, or the delivery of, services and supports otherwise available under this Division.

(d) The department shall develop informational materials about

This section was added by AB 131 and specifies that participation in the SDS program is voluntary.

This section was added by

the SDS Program. The department shall ensure that regional centers are trained in the principles of SDS, the mechanics of the SDS Program and the rights of consumers and families as candidates for, and participants, in the SDS Program. Regional centers shall conduct local meetings or forums to provide regional center consumers and families with information about the SDS Program. All consumers and families who express an interest in participating in the SDS program shall receive an in-depth orientation, conducted by the regional center, prior to enrollment in the program.

(e) Prior to enrollment in the SDS Program, and based on the methodologies described below, an individual, and when appropriate, his or her parents, legal guardian or conservator, or authorized representative, shall be provided in writing two individual budget amounts. If the individual, and when appropriate his parents, legal guardian or conservator, or authorized representative, elects to become a participant in the SDS Program, he or she shall choose which of the two budget amounts provided will be used to implement their individual program plan.

(1) The methodologies and formulae for determining the two individual budget amounts shall be detailed in departmental regulations, as follows:

(A) One individual budget amount shall equal 90 percent of the annual purchase of services costs for the individual. The annual costs shall reflect the average annual costs for the previous two fiscal years for the individual.

(B) One individual budget amount shall equal 90 percent of the annual per capita purchase of service costs for the previous two fiscal years for consumers with similar characteristics, who do not receive services through the SDS Program, based on factors including, but not limited to, age, type of residence, type of disability and ability, functional skills, and whether the individual is in transition. This budget methodology shall be constructed using data available on the State Department of Developmental Services information system.

(2) Once a participant has selected an individual budget amount, that individual budget amount shall be available to the participant each year for the purchase of self-directed services until a new individual budget amount has been determined. An individual budget amount shall be calculated no more than once in a 12-month period.

(3) As determined by the participant, the individual budget shall be distributed among the following budget categories in order to implement the IPP:

AB 131 and requires the department to develop informational materials about the SDS program; ensures regional center training on the program; and requires orientations for interested participants.

This section was added by AB 131 and requires the participant to be presented with two budget choices and to select one in order to participate. This section also establishes budget methodologies and distribution guidelines in order to implement the IPP, and allows for an appeal process for budget disputes.

- (A) Community Living.
- (B) Health and Clinical Services.
- (C) Employment.
- (D) Training and Education.
- (E) Environment and Medical Supports.
- (F) Transportation.

(4) Annually, participants may transfer up to 10 percent of the funds originally distributed to any budget category set forth in paragraph (3), to another budget category or categories. Transfers in excess of 10 percent of the original amount allocated to any budget category may be made upon the approval of the regional center.

Regional centers may only deny a transfer if necessary to protect the health and safety of the participant.

(5) The regional center shall annually ascertain from the participant whether there are any circumstances that require a change to the annual individual budget amount. The department shall detail in regulations the process by which this annual review shall be achieved.

(6) A regional center's calculation of an individual budget amount may be appealed to the executive director of the regional center, or his or her designee, within 30 days after receipt of the budget amount. The executive director shall issue a written decision within 10 working days. The decision of the executive director may be appealed to the Director of Developmental Services, or his or her designee, within 15 days of receipt of the written decision. The decision of the department is final.

(f) The department shall establish a risk pool fund to meet the unanticipated needs of participants in the SDS Program. The fund shall be administered by the department. Notwithstanding Section 13340 of the Government Code, all moneys in the fund shall be continuously appropriated to the department, without regard to fiscal years, for the purpose of funding services and supports pursuant to this subdivision.

(1) The risk pool shall be funded at the equivalent of 5 percent of the historic annual purchase of service costs for consumers participating in the SDS Program.

(2) The risk pool shall be allocated by the department to regional centers through a process specified by the department.

(3) The risk pool may be used only in the event of substantial change in a participant's service and support needs that were not known at the time the individual budget was set, including an urgent need to relocate a residence, and catastrophic injury or illness.

(4) The risk pool may be accessed by a participant more than once in a lifetime.

This section was added by AB 131 and establishes a risk pool fund to meet the unanticipated needs of SDS participants.

(g) In the first year of the SDS Program, the department shall provide for establishment of savings to the General Fund equivalent to 5 percent of the historic annual purchase of service costs for SDS program participants. In subsequent fiscal years, the department shall annually provide for establishment of savings to the General Fund equivalent to 5 percent of the annual purchase of services costs for SDS Program participants, averaged over the prior two fiscal years.

This section was added by AB 131 and requires the Department to provide for savings to the General Fund equivalent to 5 percent of the historic purchase of service costs for SDS participants.

(h) A regional center may advance funds to a financial management services entity pursuant to SDS Program regulations to facilitate development of a participant's individual budget and transition into the SDS Program.

This section was added by AB 131 to allow for funds for transition.

(i) Participation in the SDS Program shall be available to any regional center consumer who meets the following eligibility requirements.

This section was added by AB 131 to establish program eligibility requirements.

(1) The participant is three years of age or older.

(2) The participant has a developmental disability, as defined in Section 4512.

(3) The participant does not live in a licensed long-term health care facility, as defined in paragraph (44) of subdivision (a) of Section 54302 of Title 17 of the California Code of Regulations, or a residential facility, as defined in paragraph (55) of subdivision (a) of Section 54302 of Title 17 of the California Code of Regulations, or receive day program or habilitation services, as defined in paragraph (16) or (34) of subdivision (a) of Section 54302 of Title 17 of the California Code of Regulations, respectively. An individual, and when appropriate, his or her parent, legal guardian or conservator, or authorized representative, who is not eligible to participate in the SDS Program pursuant to this paragraph, may request that the regional center provide person-centered planning services in order to make arrangements for transition to the SDS Program. In that case, the regional center shall initiate person-centered planning services within 60 days of a request.

(4) The participant agrees to all of the following terms and conditions:

(A) The participant shall undergo an in-depth orientation to the SDS Program prior to enrollment.

(B) The participant shall agree to utilize the services and supports available within the SDS Program only when generic services cannot be accessed, and except for Medi-Cal state plan benefits when applicable.

(C) The participant shall consent to use only services necessary to implement his or her individual program plan as described in the IPSD Waiver Program, and as defined in paragraph (6) of subdivision

(b), as an available service in the SDS Program, and shall agree to comply with any and all other terms and conditions for participation in the SDS Program described in this section.

(D) The participant shall manage self-directed services within the individual budget amount, chosen pursuant to subdivision (e).

(E) The participant shall utilize the services of a financial management services entity of his or her own choosing. A financial management services provider may either be hired or designated by the participant. A designated financial management services provider shall perform services on a nonpaid basis. An individual or a parent of an individual in the SDS Program shall provide financial management services only as a designated provider and only if the capacity to fulfill the roles and responsibilities as described in the financial management services provider qualifications can be demonstrated to the regional center.

(F) The participant shall utilize the services of a supports broker of his or her own choosing for the purpose of providing services and functions as described in paragraphs (2) and (3) of subdivision (b). A supports broker may either be hired or designated by the participant. A designated supports broker shall perform support brokerage services on a nonpaid basis. An individual or a parent of an individual in the SDS Program shall provide supports brokerage services or his or her designated representative shall provide the services only as a designated provider and only if the capacity to fulfill the role and responsibilities as described in the supports broker provider qualifications can be demonstrated to the financial management services entity.

(j) A participant who is not Medi-Cal eligible may participate in the SDS Program without IPSD Waiver Program enrollment and receive self-directed services if all other IPSD Waiver Program eligibility requirements are met.

(k) The planning team, established pursuant to subdivision (j) of Section 4512, shall utilize the person-centered planning process to develop the Individual Program Plan (IPP) for an SDS participant. The IPP shall detail the goals and objectives of the participant that are to be met through the purchase of participant selected services and supports.

(l) The participant shall implement his or her IPP, including choosing the services and supports allowable under this section necessary to implement the plan. A regional center may not

This section was added by AB 131 to allow non-Medi-Cal eligible individuals to participate without IPSD waiver program enrollment.

This section was added by AB 131 to direct the planning team to utilize the person centered planning process to develop the IPP.

This section was added by AB 131 to allow the participant to implement

prohibit the purchase of any service or support that is otherwise allowable under this section.

(m) An adult may designate an authorized representative to effect the implementation. The representative shall meet all of the following requirements:

(1) He or she shall demonstrate knowledge and understanding of the participant's needs and preferences.

(2) He or she shall be willing and able to comply with SDS Program requirements.

(3) He or she shall be at least 18 years of age.

(4) He or she shall be approved by the participant to act in the capacity of a representative.

(n) The participant, or his or her authorized representative and the regional center case manager shall receive a monthly budget statement that describes the amount of funds allocated by budget category, the amount spent in the previous 30-day period, and the amount of funding that remains available under the participant's individual budget.

(o) If at any time during participation in the SDS Program a regional center determines that an individual is no longer eligible to continue based on the criteria described in subdivision (i), or a participant voluntarily chooses to exit the SDS Program, the regional center shall provide for the participant's transition from the SDS Program to other services and supports. This shall include the development of a new individual program plan that reflects the services and supports necessary to meet the individual's needs. The regional center shall ensure that there is no gap in services and supports during the transition period.

(1) Upon determination of ineligibility pursuant to this subdivision, the regional center shall inform the participant in writing of his or her ineligibility, the reason for the determination of ineligibility and shall provide a written notice of the fair hearing rights, as required by Section 4701.

(2) An individual determined ineligible, or who voluntarily exits the SDS Program, shall be permitted to return to the SDS Program upon meeting all applicable eligibility criteria and after a minimum of 12 months time has elapsed.

(p) A participant in the SDS Program shall have all the rights established in Chapter 7 (commencing with Section 4700), except as provided under paragraph (6) of subdivision (e).

his or her IPP.

This section was added by AB 131 to allow an adult participant to designate an authorized representative and specifies requirements that have to be met in order to be a designated representative.

This section was added by AB 131 and requires that a monthly budget statement be submitted to the listed individuals.

This section was added by AB 131 to allow a regional center to make a determination that an individual is no longer eligible for program participation, or the individual no longer wishes to participate, and provides for an orderly transition.

This section was added by AB 131 to acknowledge that all program participants shall have fair hearing rights. [note: there is no "paragraph (6) of subdivision (e)."]

(q) Only a financial management services provider is required to apply for vendorization in accordance with Subchapter 2 (commencing with Section 54300) of Chapter 3 of Title 17 of the California Code of Regulations, for the SDS Program. All other service providers shall have applicable state licenses, certifications, or other state required documentation, but are exempt from the vendorization requirements set forth in Title 17 of the California Code of Regulations. The financial management services entity shall ensure and document that all service providers meet specified requirements for any service that may be delivered to the participant.

This section was added by AB 131 and limits provider vendorization to financial management service providers. All others must have the applicable state required documentation.

(r) A participant in the SDS Program may request, at no charge to the participant or the regional center, criminal history background checks for persons seeking employment as a service provider and providing direct care services to the participant.

This section was added by AB 131 and allows a program participant to request a background check of any provider.

(1) Criminal history records checks pursuant to this subdivision shall be performed and administered as described in subdivision (b) and subdivisions (d) to (h), inclusive, of Section 4689.2, and Sections 4689.4 to 4689.6, inclusive, and shall apply to vendorization of providers and hiring of employees to provide services for family home agencies and family homes.

(2) The department may enter into a written agreement with the Department of Justice to implement this subdivision.

(s) A participant enrolled in the SDS Program pursuant to this section and utilizing an individual budget for services and supports is exempt from Section 4783 and from the Family Cost Participation Program.

This section was added by AB 131 to exempt participants utilizing an individual budget from the Family Cost Participation Program.

(t) Notwithstanding any provision of law, an individual receiving services and supports under the self-determination projects established pursuant to Section 4685.5 may elect to continue to receive self-determination services within his or her current scope and existing procedures and parameters. Participation in a self-determination project pursuant to Section 4685.5 may only be terminated upon a participant's voluntary election and qualification to receive services under another delivery system.

This section was added by AB 131 to allow participants to continue to receive services and specifies that termination can occur only with the participant's voluntary election to terminate.

(u) Each regional center shall be responsible for implementing an SDS Program as a term of its contract under Section 4629.

This section was added by AB 131 to require regional

centers to implement the program.

(v) Commencing January 10, 2008, the department shall annually provide the following information to the policy and fiscal committees of the Legislature:

(1) Number and characteristics of participants, by regional center.

(2) Types and ranking of services and supports purchased under the SDS Program, by regional center.

(3) Range and average of individual budgets, by regional center.

(4) Utilization of the risk pool, including range and average individual budget augmentations and type of service, by regional centers.

(5) Information regarding consumer satisfaction under the SDS Program and, when data is available, the traditional service delivery system, by regional center.

(6) The proportion of participants who report that their choices and decisions are respected and supported.

(7) The proportion of participants who report they are able to recruit and hire qualified service providers.

(8) The number and outcome of individual budget appeals, by regional center.

(9) The number and outcome of fair hearing appeals, by regional center.

(10) The number of participants who voluntarily withdraw from participation in the SDS Program and a summary of the reasons why, by regional center.

(11) The number of participants who are subsequently determined to no longer be eligible for the SDS Program and a summary of the reasons why, by regional center.

(12) Identification of barriers to participation and recommendations for program improvements.

(13) A comparison of average annual expenditures for individuals with similar characteristics not participating in the SDS Program.

This section was added by AB 131 and requires the department to submit an annual report to the legislature summarizing the status of the program. The first annual report will be due January 10, 2008.

4688.5. (a) Notwithstanding any other provision of law to the contrary, the department may approve a proposal or proposals by Golden Gate Regional Center, Regional Center of the East Bay, and San Andreas Regional Center to provide for, secure, and assure the full payment of a lease or leases on housing, developed pursuant to this section, based on the ~~level of~~ availability for occupancy in each home, if all of the following conditions are met:

(1) The acquired or developed real property is ~~occupied by~~ available for occupancy by individuals eligible for regional center

This section was amended by SB 643 to make technical changes to the text.

services and is integrated with housing for people without disabilities.

(2) The regional center has approved the proposed ownership entity, management entity, and developer or development entity for each project, and, prior to granting the approval, has consulted with the department and has provided to the department a proposal that includes the credentials of the proposed entities.

(3) The costs associated with the proposal are reasonable.

(4) The proposal includes a plan for a transfer at a time certain of the real property's ownership to a nonprofit entity to be approved by the regional center.

(b) Prior to approving a regional center proposal pursuant to subdivision (a), the department, in consultation with the California Housing Finance Agency and the Department of Housing and Community Development shall review all of the following:

(1) The terms and conditions of the financing structure for acquisition and/or development of the real property.

(2) Any and all agreements that govern the real property's ownership, occupancy, maintenance, management, and operation, to ensure that the use of the property is maintained for the benefit of persons with developmental disabilities.

(c) No sale encumbrance, hypothecation, assignment, refinancing, pledge, conveyance, exchange or transfer in any other form of the real property, or of any of its interest therein, shall occur without the prior written approval of the department and the Health and Human Services Agency.

(d) Notice of the restrictions pursuant to this section shall be recorded against the acquired or developed real property subject to this section.

(e) At least 45 days prior to granting approval under subdivision (c), the department shall provide notice to the chairs and vice chairs of the fiscal committees of the Assembly and the Senate, the Secretary of the Health and Human Services Agency, and the Director of Finance.

(f) The regional center shall not be eligible to acquire or develop real property for the purpose of residential housing.

INTRODUCTION

During the 2006 legislative session, provisions of the Welfare and Institutions Code were amended by three pieces of legislation as follows:

- AB 1807 (Chapter 74, Statutes of 2006, effective July 12, 2007) - Budget
- SB 1270 (Chapter 397, Statutes of 2006, effective January 1, 2007) - Chesbro
- SB 1283 (Chapter 399, Statutes of 2006, effective January 1, 2007) - Chesbro

This document identifies significant statutory changes enacted during the 2006 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 changes in law outside of the Lanterman Developmental Disabilities Services Act that may impact services or programs for persons with developmental disabilities.

The text is presented in ~~strikeout~~ and underline format. Underlined text is new or amended. ~~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 :

**AB 1807, Chapter 74, Statutes of 2006
SB 1270, Chapter 397, Statutes of 2006
SB 1283, Chapter 399, Statutes of 2006**

**Welfare and Institutions Code
Division 4.5. Services for the Developmentally Disabled**

4512. As used in this division:

(a) "Developmental disability" means a disability that originates before an individual attains age 18 years, continues, or can be expected to continue, indefinitely, and constitutes a substantial disability for that individual. As defined by the Director of Developmental Services, in consultation with the Superintendent of Public Instruction, this term shall include mental retardation, cerebral palsy, epilepsy, and autism. This term shall also include disabling conditions found to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation, but shall not include other handicapping conditions that are solely physical in nature.

(b) "Services and supports for persons with developmental disabilities" means specialized services and supports or special adaptations of generic services and supports directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with a developmental disability, or toward the achievement and maintenance of independent, productive, normal lives. The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process.

The determination shall be made on the basis of the needs and preferences of the consumer or, when appropriate, the consumer's family, and shall include consideration of a range of service options proposed by individual program plan participants, the effectiveness of each option in meeting the goals stated in the individual program plan, and the cost-effectiveness of each option. Services and supports listed in the individual program plan may include, but are not limited to, diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, physical, occupational, and speech therapy, training, education, supported and sheltered employment, mental health services,

recreation, counseling of the individual with a developmental disability and of his or her family, protective and other social and sociolegal services, information and referral services, follow-along services, adaptive equipment and supplies, advocacy assistance, including self-advocacy training, facilitation and peer advocates, assessment, assistance in locating a home, child care, behavior training and behavior modification programs, camping, community integration services, community support, daily living skills training, emergency and crisis intervention, facilitating circles of support, habilitation, homemaker services, infant stimulation programs, paid roommates, paid neighbors, respite, short-term out-of-home care, social skills training, specialized medical and dental care, supported living arrangements, technical and financial assistance, travel training, training for parents of children with developmental disabilities, training for parents with developmental disabilities, vouchers, and transportation services necessary to ensure delivery of services to persons with developmental disabilities. Nothing in this subdivision is intended to expand or authorize a new or different service or support for any consumer unless that service or support is contained in his or her individual program plan.

(c) Notwithstanding subdivisions (a) and (b), for any organization or agency receiving federal financial participation under the federal Developmental Disabilities Assistance and Bill of Rights Act, as amended "developmental disability" and "services for persons with developmental disabilities" means the terms as defined in the federal act to the extent required by federal law.

(d) "Consumer" means a person who has a disability that meets the definition of developmental disability set forth in subdivision (a).

(e) "Natural supports" means personal associations and relationships typically developed in the community that enhance the quality and security of life for people, including, but not limited to, family relationships, friendships reflecting the diversity of the neighborhood and the community, associations with fellow students or employees in regular classrooms and workplaces, and associations developed through participation in clubs, organizations, and other civic activities.

(f) "Circle of support" means a committed group of community members, who may include family members, meeting regularly with an individual with developmental disabilities in order to share experiences, promote autonomy

and community involvement, and assist the individual in establishing and maintaining natural supports. A circle of support generally includes a plurality of members who neither provide nor receive services or supports for persons with developmental disabilities and who do not receive payment for participation in the circle of support.

(g) "Facilitation" means the use of modified or adapted materials, special instructions, equipment, or personal assistance by an individual, such as assistance with communications, that will enable a consumer to understand and participate to the maximum extent possible in the decisions and choices that effect his or her life.

(h) "Family support services" means services and supports that are provided to a child with developmental disabilities or his or her family and that contribute to the ability of the family to reside together.

(i) "Voucher" means any authorized alternative form of service delivery in which the consumer or family member is provided with a payment, coupon, chit, or other form of authorization that enables the consumer or family member to choose his or her own service provider.

(j) "Planning team" means the individual with developmental disabilities, the parents or legally appointed guardian of a minor consumer or the legally appointed conservator of an adult consumer, the authorized representative, including those appointed pursuant to subdivision (d) of Section 4548 and subdivision (e) of Section 4705, one or more regional center representatives, including the designated regional center service coordinator pursuant to subdivision (b) of Section 4640.7, any individual, including a service provider, invited 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~~ subdivision (d) of Section 4548 and subdivision (e) of Section 4705.

(k) "Stakeholder organizations" means statewide organizations representing the interests of consumers, family members, service providers, and statewide advocacy organizations.

(l) "Substantial disability" means the existence of significant functional limitations in three or more of the following areas of major life activity, as determined by a regional center, and as appropriate to the age of the person:

- (1) Self-care.
- (2) Receptive and expressive language.

SB 1283 amends this section by updating a section reference.

- (3) Learning.
- (4) Mobility.
- (5) Self-direction.
- (6) Capacity for independent living.
- (7) Economic self-sufficiency.

Any reassessment of substantial disability for purposes of continuing eligibility shall utilize the same criteria under which the individual was originally made eligible.

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 29 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 or guardians of minors with developmental disabilities or conservators of adults with developmental disabilities 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, immediate relatives, guardians, or conservators of persons with developmental disabilities, and five shall be either a person with a developmental disability or a parent, immediate relatives, 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.

(2) Ten members of the council shall include the following:

(A) The Secretary of the California Health and Human Services 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.

(B) The Director of Developmental Services or his or her chief deputy.

(C) The Director of Rehabilitation or his or her chief deputy.

(D) The Superintendent of Public Instruction or his or her designee.

(E) 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.

(H) The executive director of the agency established in California to fulfill the requirements and assurance of Title I, Subtitle C, of the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000 for a system to protect and advocate the rights of persons with developmental disabilities, or his or her designee.

~~A member of the board of directors of the agency established in California to fulfill the requirements and assistance of Section 142 of the Developmental disabilities Act of 1984 for a system to protect and advocate the rights of persons with developmental disabilities.~~

(I) 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, immediate relative, guardian, or conservator of a resident of a developmental center.

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

(D) One shall be a person who is a parent, immediate relative, 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 Committee on Rules.

(c) Prior to appointing the 29 members pursuant to this section, the Governor shall request and consider recommendations from organizations representing, or providing services to, or both, persons with developmental disabilities, and shall take into account socioeconomic, ethnic, and geographic considerations of the state.

(d) The term of each member described in paragraph (1) of, subparagraphs (E) and (H) of paragraph (2) of, and

SB 1283 amends this section by specifying the executive director of Protection and Advocacy, Inc. as a voting member of the state council.

paragraph (3) of, subdivision (b) shall be for three years; provided, however, of the members first appointed by the Governor pursuant to paragraph (1) of subdivision (b), five shall hold office for three years, four shall hold office for two years, and four shall hold office for one year. In no event shall any member described in paragraph (1) of, subparagraphs (E) and (H) of paragraph (2) of, and paragraph (3) of, subdivision (b) 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, 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 subdivision (c) of 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.

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 executive director of the state council following consultation with the area boards, shall appoint a deputy director for area board operations. The Governor, upon recommendation of the executive director of the state council, shall appoint not more than two deputy directors. 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.

(2) The executive director, all deputy directors, and each area board executive director, shall be paid a salary that is

SB 1283 amends this section by directing the executive director of the state council, rather than the state council, to recommend a deputy director for area board operations.

comparable to the director, deputy director, or manager of other state boards, commissions, or state department regional offices with similar responsibilities. The executive director and three deputy directors of the state council and the executive director of each area board 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.

(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.

4622. The state shall contract only with agencies, the governing boards of which conform to all of the following criteria:

(a) The governing board shall be composed of individuals with demonstrated interest in, or knowledge of, developmental disabilities.

(b) The membership of the governing board shall include persons with legal, management, public relations, and developmental disability program skills.

(c) The membership of the governing board shall include representatives of the various categories of disability to be served by the regional center.

(d) The governing board shall reflect the geographic and ethnic characteristics of the area to be served by the regional center.

(e) A minimum of 50 percent of the members of the governing board shall be persons with developmental disabilities or their parents or legal guardians. No less than 25 percent of the members of the governing board shall be persons with developmental disabilities.

(f) Members of the governing board shall not be permitted

SB 1283 amends this section by extending

to serve more than ~~six~~ seven years within each eight-year period.

the time board members may serve from 6 years to 7 years.

(g) The regional center shall provide necessary training and support to these board members to facilitate their understanding and participation. As part of its monitoring responsibility, the department shall review and approve the method by which training and support are provided to board members to ensure maximum understanding and participation by board members.

(h) The governing board may appoint a consumers' advisory committee composed of persons with developmental disabilities representing the various categories of disability served by the regional center.

(i) The governing board shall appoint an advisory committee composed of a wide variety of persons representing the various categories of providers from which the regional center purchases client services. The advisory committee shall provide advice, guidance, recommendations, and technical assistance to the regional center board in order to assist the regional center in carrying out its mandated functions. The advisory committee shall designate one of its members to serve as a member of the regional center board.

(j) The governing board shall annually review the performance of the director of the regional center.

(k) No member of the board who is an employee or member of the governing board of a provider from which the regional center purchases client services shall do any of the following:

(1) Serve as an officer of the board.

(2) Vote on any fiscal matter affecting the purchase of services from any regional center provider.

(3) Vote on any issue other than as described in paragraph (2), in which the member has a financial interest, as defined in Section 87103 of the Government Code, and determined by the regional center board. The member shall provide a list of his or her financial interests, as defined in Section 87103, to the regional center board.

Nothing in this section shall prevent the appointment to a regional center governing board of a person who meets the criteria for more than one of the categories listed above.

This section shall become operative on July 1, 1999.

4639.75. (a) On an ongoing basis, and as necessary, the State Department of Developmental Services shall provide to regional centers, and make available on the Internet, up-to-date information about work incentive programs for persons

SB 1270 adds this section to require the department to make

with developmental disabilities and other information relevant to persons with developmental disabilities in making informed choices about employment options. This information may include, but not be limited to, the access and retention of needed benefits, the interactions of earned income, asset building, and other financial changes on benefits, employment resources and protections, taxpayer requirements and responsibilities, training opportunities, and information and services available through other agencies, organizations, or on the Internet.

(b) The department, in consultation with regional centers, shall assess the need for, and develop a plan for, training of regional center staff on employment issues facing persons with a developmental disability. The department shall not be required to implement training pursuant to this section if implementation cannot be achieved within existing resources, unless additional funding for this purpose becomes available.

available on the Internet information about work incentive programs for persons with developmental disabilities. This section also requires the department to consult with the regional centers on the need for, and development of, a training program for regional center staff on employment issues facing persons with developmental disabilities.

SEC. 48. Section 4640.6 of the Welfare and Institutions Code is amended to read:

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 1 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 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.

(3) Commencing January 1, 2004, to June 30, 2007, inclusive, the following coordinator-to-consumer ratios shall apply:

(A) All consumers three years of age and younger and for consumers enrolled on the Home and Community-based Services Waiver for persons with developmental disabilities, an average service coordinator-to-consumer ratio of 1 to 62.

(B) All consumers who have moved from a developmental center to the community since April 14, 1993, and have lived continuously in the community for at least 12 months, an average service coordinator-to-consumer ratio of 1 to 62.

(C) All consumers who have not moved from the developmental centers to the community since April 14, 1993, and who are not described in subparagraph (A), an average service coordinator-to-consumer ratio of 1 to 66.

(4) For purposes of paragraph (3), service coordinators may have a mixed caseload of consumers three years of age and younger, consumers enrolled on the Home and Community-based Services Waiver program for persons with developmental disabilities, and other consumers if the overall average caseload is weighted proportionately to ensure that overall regional center average service coordinator-to-consumer ratios as specified in paragraph (3) are met.

For purposes of paragraph (3), in no case shall a service coordinator have an assigned caseload in excess of 84 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, annually for each fiscal year. The data shall be submitted in the format, including the content, 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 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.

(D) Consumers enrolled in the Home and Community-based Services Waiver program.

(3) Not include positions that are vacant for more than 60 days or new positions established within 60 days of the reporting month that are still vacant.

(4) For purposes of calculating caseload ratios for consumers enrolled in the Home- and Community-based Services Waiver program, vacancies shall not be included in the calculations.

(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

AB 1807 amends this section by stating that vacancies are not to be included in the calculations for determining caseload ratios.

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, 2007~~6~~, 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 and after July 1, 2007~~6~~, 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.

AB 1807 amends this section by allowing an extended assessment period from 60 days to 120 days, until July 1, 2007.

(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 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 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, 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 timelines 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~~ subdivision (d) of Section 4548 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 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.

SB 1283 amends this section by updating a section reference.

4648. In order to achieve the stated objectives of a consumer's individual program plan, the regional center shall conduct activities including, but not limited to, all of the following:

(a) Securing needed services and supports.

(1) It is the intent of the Legislature that services and supports assist individuals with developmental disabilities in achieving the greatest self-sufficiency possible and in exercising personal choices. The regional center shall secure services and supports that meet the needs of the consumer, as determined in the consumer's individual program plan, and within the context of the individual program plan, the planning team shall give highest preference to those services and supports which would allow minors with developmental disabilities to live with their families, adult persons with developmental disabilities to live as independently as possible in the community, and that allow all consumers to interact with persons without disabilities in positive, meaningful ways.

(2) In implementing individual program plans, regional centers, through the planning team, shall first consider services and supports in natural community, home, work, and recreational settings. Services and supports shall be flexible and individually tailored to the consumer and, where appropriate, his or her family.

(3) A regional center may, pursuant to vendorization or a contract, purchase services or supports for a consumer from any individual or agency which the regional center and consumer or, where appropriate, his or her parents, legal guardian, or conservator, or authorized representatives, determines will best accomplish all or any part of that consumer's program plan.

(A) Vendorization or contracting is the process for identification, selection, and utilization of service vendors or contractors, based on the qualifications and other requirements necessary in order to provide the service.

(B) A regional center may reimburse an individual or agency for services or supports provided to a regional center consumer if the individual or agency has a rate of payment for vendored or contracted services established by the department, pursuant to this division, and is providing services pursuant to an emergency vendorization or has completed the vendorization procedures or has entered into a contract with the regional center and continues to comply with the vendorization or contracting requirements. The director shall adopt regulations governing the

vendorization process to be utilized by the department, regional centers, vendors and the individual or agency requesting vendorization.

(C) Regulations shall include, but not be limited to: the vendor application process, and the basis for accepting or denying an application; the qualification and requirements for each category of services that may be provided to a regional center consumer through a vendor; requirements for emergency vendorization; procedures for termination of vendorization; the procedure for an individual or an agency to appeal any vendorization decision made by the department or regional center.

(D) A regional center may vendorize a licensed facility for exclusive services to persons with developmental disabilities at a capacity equal to or less than the facility's licensed capacity. A facility already licensed on January 1, 1999, shall continue to be vendorized at their full licensed capacity until the facility agrees to vendorization at a reduced capacity.

(4) Notwithstanding subparagraph (B), a regional center may contract or issue a voucher for services and supports provided to a consumer or family at a cost not to exceed the maximum rate of payment for that service or support established by the department. If a rate has not been established by the department, the regional center may, for an interim period, contract for a specified service or support with, and establish a rate of payment for, any provider of the service or support necessary to implement a consumer's individual program plan. Contracts may be negotiated for a period of up to three years, with annual review and subject to the availability of funds.

(5) In order to ensure the maximum flexibility and availability of appropriate services and supports for persons with developmental disabilities, the department shall establish and maintain an equitable system of payment to providers of services and supports identified as necessary to the implementation of a consumers' individual program plan. The system of payment shall include provision for a rate to ensure that the provider can meet the special needs of consumers and provide quality services and supports in the least restrictive setting as required by law.

(6) The regional center and the consumer, or where appropriate, his or her parents, legal guardian, conservator, or authorized representative, including those appointed pursuant to ~~Section 4590~~ subdivision (d) of Section 4548 or subdivision (e) of Section 4705, shall, pursuant to the individual program plan, consider all of the following when

SB 1283 amends this section by updating a section reference.

selecting a provider of consumer services and supports:

(A) A provider's ability to deliver quality services or supports which can accomplish all or part of the consumer's individual program plan.

(B) A provider's success in achieving the objectives set forth in the individual program plan.

(C) Where appropriate, the existence of licensing, accreditation, or professional certification.

(D) The cost of providing services or supports of comparable quality by different providers, if available.

(E) The consumer's or, where appropriate, the parents, legal guardian, or conservator of a consumer's choice of providers.

(7) No service or support provided by any agency or individual shall be continued unless the consumer or, where appropriate, his or her parents, legal guardian, or conservator, or authorized representative, including those appointed pursuant to ~~Section 4590~~ subdivision (d) of Section 4548 or subdivision (e) of Section 4705, is satisfied and the regional center and the consumer or, when appropriate, the

person's parents or legal guardian or conservator agree that planned services and supports have been provided, and reasonable progress toward objectives have been made.

(8) Regional center funds shall not be used to supplant the budget of any agency which has a legal responsibility to serve all members of the general public and is receiving public funds for providing those services.

(9) (A) A regional center may, directly or through an agency acting on behalf of the center, provide placement in, purchase of, or follow-along services to persons with developmental disabilities in, appropriate community living arrangements, including, but not limited to, support service for consumers in homes they own or lease, foster family placements, health care facilities, and licensed community care facilities. In considering appropriate placement alternatives for children with developmental disabilities, approval by the child's parent or guardian shall be obtained before placement is made.

(B) Each person with developmental disabilities placed by the regional center in a community living arrangement shall have the rights specified in this division. These rights shall be brought to the person's attention by any means necessary to reasonably communicate these rights to each resident, provided that, at a minimum, the Director of Developmental Services prepare, provide, and require to be clearly posted in

SB 1283 amends this section by updating a section reference.

all residential facilities and day programs a poster using simplified language and pictures that is designed to be more understandable by persons with cognitive disabilities and that the rights information shall also be available through the regional center to each residential facility and day program in alternative formats, including, but not limited to, other languages, braille, and audio tapes, when necessary to meet the communication needs of consumers.

(C) Consumers are eligible to receive supplemental services including, but not limited to, additional staffing, pursuant to the process described in subdivision (d) of Section 4646. Necessary additional staffing that is not specifically included in the rates paid to the service provider may be purchased by the regional center if the additional staff are in excess of the amount required by regulation and the individual's planning team determines the additional services are consistent with the provisions of the individual program plan. Additional staff should be periodically reviewed by the planning team for consistency with the individual program plan objectives in order to determine if continued use of the additional staff is necessary and appropriate and if the service is producing outcomes consistent with the individual program plan. Regional centers shall monitor programs to ensure that the additional staff is being provided and utilized appropriately.

(10) Emergency and crisis intervention services including, but not limited to, mental health services and behavior modification services, may be provided, as needed, to maintain persons with developmental disabilities in the living arrangement of their own choice. Crisis services shall first be provided without disrupting a person's living arrangement. If crisis intervention services are unsuccessful, emergency housing shall be available in the person's home community. If dislocation cannot be avoided, every effort shall be made to return the person to his or her living arrangement of choice, with all necessary supports, as soon as possible.

(11) Among other service and support options, planning teams shall consider the use of paid roommates or neighbors, personal assistance, technical and financial assistance, and all other service and support options which would result in greater self-sufficiency for the consumer and cost-effectiveness to the state.

(12) When facilitation as specified in an individual program plan requires the services of an individual, the facilitator shall be of the consumer's choosing.

(13) The community support may be provided to assist

individuals with developmental disabilities to fully participate in community and civic life, including, but not limited to, programs, services, work opportunities, business, and activities available to persons without disabilities. This facilitation shall include, but not be limited to, any of the following:

(A) Outreach and education to programs and services within the community.

(B) Direct support to individuals which would enable them to more fully participate in their community.

(C) Developing unpaid natural supports when possible.

(14) Other services and supports may be provided as set forth in Sections 4685, 4686, 4687, 4688, and 4689, when necessary.

(b) (1) Advocacy for, and protection of, the civil, legal, and service rights of persons with developmental disabilities as established in this division.

(2) Whenever the advocacy efforts of a regional center to secure or protect the civil, legal, or service rights of any of its consumers prove ineffective, the regional center or the person with developmental disabilities or his or her parents, legal guardian, or other representative may request the area board to initiate action under the provisions defining area board advocacy functions established in this division.

(c) The regional center may assist consumers and families directly, or through a provider, in identifying and building circles of support within the community.

(d) In order to increase the quality of community services and protect consumers, the regional center shall, when appropriate, take either of the following actions:

(1) Identify services and supports that are ineffective or of poor quality and provide or secure consultation, training, or technical assistance services for any agency or individual provider to assist that agency or individual provider in upgrading the quality of services or supports.

(2) Identify providers of services or supports that may not be in compliance with local, state, and federal statutes and regulations and notify the appropriate licensing or regulatory authority, or request the area board to investigate the possible noncompliance.

(e) When necessary to expand the availability of needed services of good quality, a regional center may take actions that include, but are not limited to, the following:

(1) Soliciting an individual or agency by requests for proposals or other means, to provide needed services or supports not presently available.

(2) Requesting funds from the Program Development Fund, pursuant to Section 4677, or community placement plan funds designated from that fund, to reimburse the startup costs needed to initiate a new program of services and supports.

(3) Using creative and innovative service delivery models, including, but not limited to, natural supports.

(f) Except in emergency situations, a regional center shall not provide direct treatment and therapeutic services, but shall utilize appropriate public and private community agencies and service providers to obtain those services for its consumers.

(g) Where there are identified gaps in the system of services and supports or where there are identified consumers for whom no provider will provide services and supports contained in his or her individual program plan, the department may provide the services and supports directly.

4648.4. (a) Notwithstanding any other provision of law or regulation, commencing July 1, 2006, rates for services listed in paragraphs (1), (2), with the exception of travel reimbursement, (3) to (8), inclusive, (10), and (11) of subdivision (b), shall be increased by 3 percent, subject to funds specifically appropriated for this increase in the Budget Act of 2006. The increase shall be applied as a percentage, and the percentage shall be the same for all providers. Any subsequent change shall be governed by subdivision (b).

AB 1807 amends this section by providing a rate increase of 3% for supported living services, transportation (excluding travel reimbursement), and other services defined.

(~~a~~) Notwithstanding any other provision of law or regulation, except for subdivision (a), during the ~~2005-06~~ 2006-07 fiscal year, no regional center may pay any provider of the following services or supports a rate that is greater than the rate that is in effect on or after ~~June 30, 2004~~, July 1, 2006, unless the increase is required by a contract between the regional center and the vendor that is in effect on June 30, ~~2006~~ 2004, or the regional center demonstrates that the approval is necessary to protect the consumer's health or safety and the department has granted prior written authorization:

AB 1807 amends this section by extending the date for cap on the payment rate for selected services and supports.

- (1) Supported living services.
- (2) Transportation, including travel reimbursement.
- (3) Socialization training programs.
- (4) Behavior intervention training.
- (5) Community integration training programs.
- (6) Community activities support services.
- (7) Mobile day programs.

- (8) Creative art programs.
- (9) Supplemental day services program supports.
- (10) Adaptive skills trainers.
- (11) Independent living specialists.

4677. (a) All parental fees collected by or for regional centers shall be remitted to the State Treasury to be deposited in the Developmental Disabilities Program Development Fund, which is hereby created and hereinafter called the Program Development Fund. The purpose of the Program Development Fund shall be to provide resources needed to initiate new programs, ~~consistent with approved priorities for program development in the state plan, and to expand or convert existing programs.~~ Within the context of, and consistent with, approved priorities for program development in the state plan, program development funds shall promote integrated residential, work, instructional, social, civic, volunteer, and recreational services and supports that increase opportunities for self-determination and maximum independence of persons with developmental disabilities.

SB 1283 amends this section by specifying the focus of the Program Development Fund (PDF).

In no event shall an allocation from the Program Development Fund be granted for more than 24 months.

SB 1283 amends this section by extending the requirement to request information from 3 to 5 years.

(b) ~~(1)~~ The State Council on Developmental Disabilities shall, ~~not less than once every three years~~ at least once every five years, request from all regional centers information on the types and amounts of services and supports needed, but currently unavailable.

(2) The state council shall work collaboratively with the department and the Association of Regional Center Agencies to develop standardized forms and protocols that shall be used by all regional centers and area boards in collecting and reporting this information. In addition to identifying services and supports that are needed, but currently unavailable, the forms and protocols shall also solicit input and suggestions on alternative and innovative service delivery models that would address consumer needs.

SB 1283 amends this section by requiring the state council to work with the department and ARCA to develop standardized forms and protocols to be used by regional centers and area boards when collecting and reporting PDF information. Expands the information sources that may be used to develop the required assessment.

(3) In addition to the information provided pursuant to paragraph (2), the state council may utilize information from other sources, including, but not limited to, public hearings, life quality assessments conducted pursuant to Section 4570, the annual report regarding persons moving from developmental centers produced pursuant to Section 4418.1, the annual report regarding community-based vendor services produced pursuant to Section 4637.5, regional

center reports on alternative service delivery submitted to the department pursuant to Section 4669.2, and the annual report on self-directed services produced pursuant to Section 4685.7.

(4) The department shall provide additional information, as requested by the state council.

(5) Based on the information provided by the regional centers and other agencies, the state council State Council on Developmental Disabilities shall develop an assessment of the level of need for new, expanded, or converted community services and support, and make that assessment available to the public. This needs The assessment shall include a discussion of the type and amount of services and supports necessary but currently unavailable including the impact on consumers with common characteristics, including, but not limited to, disability, specified geographic regions, age, and ethnicity, face distinct challenges. The assessment shall highlight alternative and innovative service delivery models identified through their assessment process be included in the state plan.

(6) This needs assessment shall be conducted at least once every five years and updated annually. The assessment shall be included in the state plan and shall be provided to the department and to the appropriate committees of the Legislature. The State Council on Developmental Disabilities, in consultation with the State Department of Developmental Services, shall make a recommendation to the Department of Finance as to the level of funding for program development to be included in the Governor's Budget, based upon this needs assessment.

(c) Parental fee schedules shall be evaluated pursuant to Section 4784 and adjusted annually by the department, with the approval of the state council. Fees for out-of-home care shall bear an equitable relationship to the cost of the care and the ability of the family to pay.

(d) In addition to parental fees and General Fund appropriations, the Program Development Fund may be augmented by federal funds available to the state for program development purposes, when these funds are allotted to the Program Development Fund in the state plan. The Program Development Fund is hereby appropriated to the department, and subject to any allocations that may be made in the annual Budget Act. In no event shall any of these funds revert to the General Fund.

(e) The department may allocate funds from the Program Development Fund for any legal purpose, provided that

SB 1283 amends this section by expanding on the information to be included in the assessment.

SB 1283 requires that the needs assessment be conducted every five years and requires annual updating.

requests for proposals and allocations are approved by the state council in consultation with the department, and are consistent with the priorities for program development in the state plan. Allocations from the Program Development Fund shall take into consideration the following factors:

(1) The future fiscal impact of the allocations on other state supported services and supports for persons with developmental disabilities.

(2) The information on priority services and supports needed, but currently unavailable, submitted by the regional centers.

Consistent with the level of need as determined in the state plan, excess parental fees may be used for purposes other than ~~new programs~~ specified in subdivision (a) development only when specifically appropriated to the State Department of Developmental Services for those purposes.

(f) Under no circumstances shall the deposit of federal moneys into the Program Development Fund be construed as requiring the State Department of Developmental Services to comply with a definition of "developmental disabilities" and "services for persons with developmental disabilities" other than as specified in subdivisions (a) and (b) of Section 4512 for the purposes of determining eligibility for developmental services or for allocating parental fees and state general funds deposited in the Program Development Fund.

4678. (a) The State Council on Developmental Disabilities, in implementing subdivision (b) of Section 4677, and with the support of the State Department of Developmental Services, shall convene a stakeholder workgroup on alternative and expanded options for nonresidential services and supports. The workgroup shall include persons with developmental disabilities, family members, providers, and other system stakeholders. The workgroup shall develop recommendations on how to best achieve all of the following:

(1) The development and expansion of community-based models that provide an array of nonresidential options, including, but not limited to, participation in integrated instructive, social, civic, volunteer, and recreational activities.

(2) The development and expansion of community-based work activities, including, but not limited to, customized employment development, integrated job training, and employer-provided job coaching.

(3) The expansion of work opportunities in the public sector.

SB 1270, Chapter 397, Statutes of 2006 adds this section to require the State Council to convene a stakeholder workgroup to explore expanded options for nonresidential services and supports and requires the workgroup to recommend how to achieve specified objectives and requires the Council to submit workgroup recommendations to the Governor no later

(4) The increased utilization of existing models, including, but not limited to, self-directed services, vouchers, family teaching models, existing habilitation, and supported work vendors to facilitate access to nontraditional community-based nonresidential activities.

than May 1, 2007 and incorporate subsequent recommendations into the state plan.

(5) Strategies to promote and duplicate successful and innovative models developed in California and in other states.

(6) The identification of, and strategies to address, statutory, regulatory, licensing, vendor-related, funding and other types of barriers to achieving the goals identified in this act, including strategies to improve individualization of services and supports by increased flexibility in design, staffing, and compensation.

(b) By May 1, 2007, the State Council on Developmental Disabilities shall submit recommendations from the workgroup to the Governor and appropriate committees of the Legislature and may, thereafter, incorporate subsequent recommendations into its state plan developed pursuant to Section 4561.

4681.3. (a) Notwithstanding any other provision of this article, for the 1996-97 fiscal year, the rate schedule authorized by the department in operation June 30, 1996, shall be increased based upon the amount appropriated in the Budget Act of 1996 for that purpose. The increase shall be applied as a percentage, and the percentage shall be the same for all providers.

(b) Notwithstanding any other provision of this article, for the 1997-98 fiscal year, the rate schedule authorized by the department in operation on June 30, 1997, shall be increased based upon the amount appropriated in the Budget Act of 1997 for that purpose. The increase shall be applied as a percentage, and the percentage shall be the same for all providers.

(c) Notwithstanding any other provision of this article, for the 1998-99 fiscal year, the rate schedule authorized by the department in operation on June 30, 1998, shall be increased commencing July 1, 1998, based upon the amount appropriated in the Budget Act of 1998 for that purpose. The increase shall be applied as a percentage, and the percentage shall be the same for all providers.

(d) Notwithstanding any other provision of this article, for the 1998-99 fiscal year, the rate schedule authorized by the department in operation on December 31, 1998, shall be increased January 1, 1999, based upon the cost-of-living

adjustments in the Supplemental Security Income/State Supplementary Program for the Aged, Blind, and Disabled appropriated in the Budget Act of 1998 for that purpose. The increase shall be applied as a percentage and the percentage shall be the same for all providers.

(e) Notwithstanding any other provision of this article, for the 1999-2000 fiscal year, the rate schedule authorized by the department in operation on June 30, 1999, shall be increased July 1, 1999, based upon the amount appropriated in the Budget Act of 1999 for that purpose. The increase shall be applied as a percentage and the percentage shall be the same for all providers.

(f) In addition, commencing January 1, 2000, any funds available from cost-of-living adjustments in the Supplemental Security Income/State Supplementary Payment (SSI/SSP) for the 1999-2000 fiscal year shall be used to further increase the community care facility rate. The increase shall be applied as a percentage, and the percentage shall be the same for all providers.

(g) Notwithstanding any other provision of law or regulation, for the 2006-07 fiscal year, the rate schedule in effect on June 30, 2006, shall be increased on July 1, 2006, by 3 percent, subject to funds specifically appropriated for this increase in the Budget Act of 2006. The increase shall be applied as a percentage and the percentage shall be the same for all providers. Any subsequent increase shall be governed by Section 4681.5.

AB 1807 amends this section by requiring a 3% increase in the rate schedule in effect on June 30, 2006.

4681.5. Notwithstanding any other provision of law or regulation, during the 2006-07 ~~2005-06~~ fiscal year, no regional center may approve any service level for a residential service provider, as defined in Section 56005 of Title 17 of the California Code of Regulations, if the approval would result in an increase in the rate to be paid to the provider that is greater than the rate that is in effect on ~~or after June 30, 2005~~ July 1, 2006, unless the regional center demonstrates to the department that the approval is necessary to protect the consumer's health or safety and the department has granted prior written authorization.

AB 1807 amends this section by updating dates.

4688. (a) Consistent with state and federal law, the Legislature places a high priority on providing opportunities for individuals with developmental disabilities to be integrated into the mainstream life of their natural communities. In order to ensure that opportunities for integration are maximized, the

procedure described in subdivision (b) shall be adopted.

(b) Regional centers shall be responsible for expanding opportunities for the full and equal participation of persons with developmental disabilities in their local communities through, activities, that may include, but shall not be limited to, the following:

(1) Outreach to, and training and education of, representatives of community service agencies and programs, businesses, and community activity providers regarding the provision and expansion of opportunities for participation by regional center consumers.

(2) Developing a community resources list.

(3) Providing assistance to case managers and family members on expanding community integration options for consumers in the areas of work, recreation, social, community service, education, and public services.

(4) Developing and facilitating the use of innovative methods of contracting with community members to provide support in natural environments to regional center consumers.

(5) Development and facilitating the use of natural supports to enhance community participation.

(6) Providing technical assistance to, and coordinating with, community support facilitators who will be used to provide supports to individual consumers for community participation, as needed.

(7) Providing sources of information relevant to individuals in making informed choices about employment options. This information may include, but need not be limited to, work incentive programs for persons with developmental disabilities, access and retention of needed benefits, interactions of earned income, asset building, or other financial changes on benefits, employment programs and protections, taxpayer requirements and responsibilities, training opportunities, and information and services available through other agencies, organizations, or on the Internet.

SB 1270 amends this section by requiring regional centers to provide relevant employment information to persons with developmental disabilities.

4690.5. Notwithstanding any other provision of law or regulation, commencing July 1, 2006, the rate for family member-provided respite services authorized by the department and in operation June 30, 2006, shall be increased by 3 percent, subject to funds specifically

AB 1807 adds this section to require a 3% rate increase for family member- provided

appropriated for this increase in the Budget Act of 2006. The increase shall be applied as a percentage, and the percentage shall be the same for all providers.

respite services.

4691.6. (a) Notwithstanding any other provision of law or regulation, commencing July 1, 2006, the community-based day program, work activity program, and in-home respite service agency rate schedules authorized by the department and in operation June 30, 2006, shall be increased by 3 percent, subject to funds specifically appropriated for this increase in the Budget Act of 2006. The increase shall be applied as a percentage, and the percentage shall be the same for all providers. Any subsequent increase shall be governed by subdivisions (b), (c), (d), and (e).

AB 1807, Chapter 74, Statutes of 2006 amends this section to require a rate increase of 3% for community-based day programs, work activity programs, and in-home respite.

(~~a~~b) Notwithstanding any other provision of law or regulation, during the ~~2005-06~~ 2006-07 fiscal year, the department may not establish any permanent payment rate for a community-based day program or in-home respite service agency provider that has a temporary payment rate in effect on ~~June 30, 2005,~~ July 1, 2006, if the permanent payment rate would be greater than the temporary payment rate in effect on or after ~~June 30, 2005,~~ July 1, 2006, unless the regional center demonstrates to the department that the permanent payment rate is necessary to protect the consumers' health or safety.

Except for 3% increase provided, continues rate freeze for an additional year.

(~~b~~c) Notwithstanding any other provision of law or regulation, during the ~~2005-06~~ 2006-07 fiscal year, neither the department nor any regional center may approve any program design modification or revendorization for a community-based day program or in-home respite service agency provider that would result in an increase in the rate to be paid to the vendor from the rate that is in effect on or after ~~June 30, 2005,~~ July 1, 2006, unless the regional center demonstrates that the program design modification or revendorization is necessary to protect the consumers' health or safety and the department has granted prior written authorization.

(~~c~~d) Notwithstanding any other provision of law or regulation, during the ~~2005-06~~ 2006-07 fiscal year, the department may not approve an anticipated rate adjustment for a community-based day program or in-home respite service agency provider that would result in an increase in the rate to be paid to the vendor from the rate that is in effect

on or after ~~June 30, 2005~~, July 1, 2006, unless the regional center demonstrates that the anticipated rate adjustment is necessary to protect the consumers' health or safety.

(de) Notwithstanding any other provision of law or regulation, during the ~~2005-06~~ 2006-07 fiscal year, the department may not approve any rate adjustment for a ~~habilitation services work activity program~~ that would result in an increase in the rate to be paid to the vendor from the rate that is in effect on or after ~~June 30, 2005~~, July 1, 2006, unless the regional center demonstrates that the rate adjustment is necessary to protect the consumers' health and safety and the department has granted prior written authorization.

4691.8. (a) Notwithstanding any other provision of law or regulation, and to the extent funds are appropriated in the annual Budget Act for this purpose, the department may provide a rate increase for the purpose of enhancing wages for direct care staff in day programs and in work activity programs, as defined in subdivision (e) of Section 4851, and in look-alike programs, that meet any of the following criteria:

(1) Provide a majority of their services and supports in integrated community settings.

(2) Are day programs that are converting to integrated community settings.

(3) Are work activity programs that are converting to supported work programs.

(b) The department may approve a temporary rate increase for a program that is converting pursuant to paragraph (2) or (3) of subdivision (a). A program shall not be eligible for a permanent rate increase pursuant to this section unless it meets the criteria established in paragraph (1) of subdivision (a).

(c) A rate increase provided pursuant to paragraph (1) of subdivision (a) to existing programs shall be effective not more than 60 days following the adoption of the Budget Act that appropriates the necessary funding.

(d) Prior to implementation of this section, the department shall consult with stakeholders, including various provider organizations, the regional centers, and all other interested parties.

(e) The department shall provide the Legislature, by April 1, 2007, with a description of how this section has been implemented, along with the following information:

(1) The number of day programs and work activity centers receiving an enhanced rate, by regional center.

AB 1807 adds this section to allow the department to provide a rate increase in staff wages for direct care staff employed in day programs and work activity programs and establishes standards for providing the increase. This section provides an effective date for the increase and requires the department to consult with stakeholders prior to implementation of the increase. This section requires the department to report to the legislature by April 1, 2007, a description of the implementation.

- (2) The number of program conversions, by regional center.
- (3) The percentage of rate increase provided to programs.
- (4) The effect of the rate increase on direct care staff wages.

4694. Commencing July 1, 2006, all regional center vendors who are qualified providers under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.) and are serving individuals enrolled under the Home- and Community-based Services Waiver program for persons with developmental disabilities, shall ensure that billing information provided to regional centers identifies each individual consumer and, for each consumer, the specific dates of service, location of service, service unit, unit costs, and other information necessary to support billing under the home- and community-based services waiver. Regional centers shall also ensure that their contractual and other billing and payment arrangements with providers require the provision of any information necessary to support billing under the Home- and Community-based Services Waiver program. Resources provided to regional centers, pursuant to the Budget Act of 2006 and following budgets, to implement this provision shall be allocated to the regional centers only until implementation of a statewide electronic data system that collects the billing information necessary to support billing under the Home- and Community-based Services Waiver program.

AB 1807 adds this section to require regional centers qualified under Title XIX of the Social Security Act and serving individuals under the Medicaid Waiver Program to ensure that billing information submitted to the regional center contain specific billing information and that payment arrangements with providers require the necessary information to support billing under the Medicaid Waiver.

4701.6. "Authorized representative" means the conservator of an adult, the guardian, conservator, or parent or person having legal custody of a minor claimant, or a person or agency appointed pursuant to ~~Section 4590~~ subdivision (d) of Section 4548 or subdivision (e) of Section 4705 and authorized in writing by the claimant or by the legal guardian, conservator, or parent or person having legal custody of a minor claimant to act for or represent the claimant under this chapter.

SB 1283 amends this section by updating section references.

4705. (a) Every service agency shall, as a condition of continued receipt of state funds, have an agency fair hearing procedure for resolving conflicts between the service agency and recipients of, or applicants for, service. The State Department of Developmental Services shall promulgate regulations to implement this chapter by July 1, 1999, which

shall be binding on every service agency.

Any public or private agency receiving state funds for the purpose of serving persons with developmental disabilities not otherwise subject to the provisions of this chapter shall, as a condition of continued receipt of state funds, adopt and periodically review a written internal grievance procedure.

(b) An agency that employs a fair hearing procedure mandated by any other statute shall be considered to have an approved procedure for purposes of this chapter.

(c) The service agency's mediation and fair hearing procedure shall be stated in writing, in English and any other language that may be appropriate to the needs of the consumers of the agency's service. A copy of the procedure and a copy of the provisions of this chapter shall be prominently displayed on the premises of the service agency.

(d) All recipients and applicants, and persons having legal responsibility for recipients or applicants, shall be informed verbally of, and shall be notified in writing in a language which they comprehend of, the service agency's mediation and fair hearing procedure when they apply for service, when they are denied service, and when notice of service modification is given pursuant to Section 4710.

(e) If, in the opinion of any person, the rights or interests of a claimant who has not personally authorized a representative will not be properly protected or advocated, the local area board and the clients' right advocate assigned to the regional center or developmental center shall be notified, and the area board may appoint a person or agency as representative, pursuant to ~~Section 4590~~ subdivision (d) of Section 4548, to assist the claimant in the mediation and fair hearing procedure. The appointment shall be in writing to the authorized representative and a copy of the appointment shall be immediately mailed to the service agency director.

SB 1283 amends this section by updating section references.

4747. If a consumer or, when appropriate, the parent, guardian, or conservator or authorized representative, including those appointed pursuant to ~~Section 4590~~ subdivision (d) of Section 4548 or subdivision (e) of Section 4705, requests a relocation, the regional center shall schedule an individual program plan meeting, as soon as possible to assist in locating and moving to another residence.

SB 1283 amends this section by updating section references.

4781.5. (a) For the ~~2005-06~~ 2006-07 fiscal year only, a regional center may not expend any purchase of service funds for the startup of any new program unless one of the following criteria is met:

~~(1) 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 provisions shall not apply to any of the following:~~

(2) The program to be developed promotes and provides integrated supported work options for individuals or groups of no more than three consumers.

(3) The program to be developed promotes and provides integrated social, civic, volunteer, or recreational activities.

(b) Notwithstanding subdivision (a), a regional center may approve grants to current providers to engage in new or expanded employment activities that result in greater integration, conversion from sheltered to supported work environments, self-employment, and increased consumer participation in the federal Ticket to Work program.

(c) Startup contracts for programs funded under this section shall be outcome-based.

(d) The department shall develop criteria by which regional centers shall approve grants, and shall provide prior written authorization for the expenditures under this section.

~~(e) This provision~~ section shall not apply to any of the following:

(a1) The purchase of services funds allocated as part of the department's community placement plan process.

(b2) Expenditures for the startup of new programs made pursuant to a contract entered into before July 1, 2002.

SB 1283 amends this section by extending for one year the limitation on the use of POS funds and expands to circumstances under which a regional center may expend purchase of service funds for program development.

4803. If a regional center recommends that a person be admitted to a community care facility or health facility as a developmentally disabled resident, the employee or designee of the regional center responsible for making the recommendations shall certify in writing that neither the person recommended for admission to a community care facility or health facility, nor the parent of a minor or

SB 1283 amends this section by updating section references.

conservator of an adult, if appropriate, nor the person or agency appointed pursuant to ~~Section 4590~~ subdivision (d) of Section 4548 or subdivision (e) of Section 4705 has made an objection to the admission to the person making the recommendation. The regional center shall transmit the certificate, or a copy thereof, to the community care facility or health facility.

A community care facility or health facility shall not admit any adult as a developmentally disabled patient on recommendation of a regional center unless a copy of the certificate has been transmitted pursuant to this section.

Any person who, knowing that objection to a community care facility or health facility admission has been made, certifies that no objection has been made, shall be guilty of a misdemeanor. Objections to proposed placements shall be resolved by a fair hearing procedure pursuant to Section 4700.

4860. (a) (1) The hourly rate for supported employment services provided to consumers receiving individualized services shall be thirty-four dollars and twenty-four cents (\$34.24) ~~twenty-seven dollars and sixty-two cents (\$27.62)~~.

(2) Job coach hours spent in travel to consumer worksites may be reimbursable for individualized services only when the job coach travels from the vendor's headquarters to the consumer's worksite or from one consumer's worksite to another, and only when the travel is one way.

(b) The hourly rate for group services shall be thirty-four dollars and twenty-four cents (\$34.24) ~~twenty-seven dollars and sixty-two cents (\$27.62)~~, regardless of the number of consumers served in the group. Consumers in a group shall be scheduled to start and end work at the same time, unless an exception that takes into consideration the consumer's compensated work schedule is approved in advance by the regional center. The department, in consultation with stakeholders, shall adopt regulations to define the appropriate grounds for granting these exceptions. When the number of consumers in a supported employment placement group drops to fewer than the minimum required in subdivision (r) of Section 4851 the regional center may terminate funding for the group services in that group, unless, within 90 days, the program provider adds one or more regional center, or Department of Rehabilitation funded supported employment consumers to the group.

(c) Job coaching hours for group services shall be allocated

AB 1807 amends this section by increasing the hourly rate for supported employment service from \$27.62 to \$34.24.

AB 1807 amends this section by increasing the hourly rate for group services from \$27.62 to \$34.24.

on a prorated basis between a regional center and the Department of Rehabilitation when regional center and Department of Rehabilitation consumers are served in the same group.

(d) When Section 4855 applies, fees shall be authorized for the following:

(1) A four hundred dollar (\$400) ~~two hundred dollar (\$200)~~ fee shall be paid to the program provider upon intake of a consumer into a supported employment program. No fee shall be paid if that consumer completed a supported employment intake process with that same supported employment program within the previous 12 months.

AB 1807 amends this section by requiring increased fees to be paid to specified vendors.

(2) An eight hundred dollar (\$800) ~~four hundred (\$400)~~ fee shall be paid upon placement of a consumer in an integrated job, except that no fee shall be paid if that consumer is placed with another consumer or consumers assigned to the same job coach during the same hours of employment.

(3) An eight hundred dollar (\$800) ~~four hundred (\$400)~~ fee shall be paid after a 90-day retention of a consumer in a job, except that no fee shall be paid if that consumer has been placed with another consumer or consumers, assigned to the same job coach during the same hours of employment.

(e) Notwithstanding paragraph (4) of subdivision (a) of Section 4648 the regional center shall pay the supported employment program rates established by this section.

INTRODUCTION

During the 2007 Legislative session, provisions of the Welfare and Institutions Code were amended or added by one piece of legislation as follows:

Assembly Bill 203, Chapter 188, Statutes of 2007
Senate Bill 84, Chapter 171, Statutes of 2007

This document was prepared to identify significant statutory changes that occurred in the 2007 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 and does not include changes in law outside of the Lanterman Developmental Services Act that may impact services or programs for persons with developmental disabilities.

The text is presented in ~~strikeout~~ and underline format. Underlined text is new. ~~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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January 1, 2008

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The following is a compilation of the amendments made by:

**Assembly Bill 203, Chapter 188, Statutes of 2007
Senate Bill 84, Chapter 171, Statutes of 2007**

**Department of Developmental Services
Welfare and Institutions Code
Division 4.1. General Administration, Powers and Duties of the Department**

4474.4. Notwithstanding any other provision of law to the contrary, the Secretary of California Health and Human Services shall verify that the State Department of Developmental Services and the State Department of Health Care Services have established protocols in place between the departments, as well as with the regional centers and health care plans participating in the Medi-Cal Program who will be providing services, including health, dental, and vision care, to people with developmental disabilities transitioning from Agnews Developmental Center. The Secretary of California Health and Human Services shall provide written verification of the establishment of these protocols to the Joint Legislative Budget Committee, as well as to the fiscal and policy committees of the Legislature that oversee health and human services programs. The purpose of the protocols is to ensure that a mutual goal of providing appropriate, high-quality care and services to children and adults who have developmental disabilities in order to optimize the health and welfare of each individual. Further, the purpose of the protocols is to ensure that all involved parties, including consumers and families, the state, regional centers, and providers, are clear as to their roles and responsibilities, and are appropriately accountable for optimizing the health and welfare of each individual. The protocols, at a minimum, shall address enrollment for services, all referral practices, including those to specialty care, authorization practices for services of all involved parties, coordination of case management services, education and training services to be provided, the management of medical records, and provider reimbursement methods. These protocols shall be provided to the consumers and their families, and be made available to the public upon request.

AB 203 adds this section by requiring the Departments of Developmental Services and Health Care Services to establish protocols for regional centers and health care plans participating in the Medi-Cal Program providing services to people with developmental disabilities who are transitioning from Agnews Developmental Center and also requires the Secretary of the Health and Human Services Agency to provide written verification of the establishment of these protocols to the state legislature.

4474.5. (a) In order to meet the unique medical health needs of consumers transitioning from Agnews Developmental Center into Alameda, San Mateo, and Santa Clara Counties pursuant to the Plan for the Closure of Agnews Developmental Center, whose individual program plans document the need for coordinated medical and specialty care that cannot be met using the traditional Medi-Cal Fee-For-Service system, services provided under the contract shall be provided by Medi-Cal managed care health plans that are currently operational in these counties as a county organized health system or a local initiative if consumers, where applicable, choose to enroll. Reimbursement shall be by the State Department of Health Care Services for all Medi-Cal services provided under the contract that are not reimbursed by the Medicare program.

(b) Medi-Cal managed care health plans enrolling members referred to in subdivision (a) shall be further reimbursed for the reasonable cost of administrative services. Administrative services pursuant to this subdivision include, but are not limited to, coordination of care and case management not provided by a regional center, provider credentialing and contracting, quality oversight, assuring member access to covered services, consultation with Agnews Developmental Center staff, regional center staff, Department of Developmental Services staff, contractors, and family members, and financial management of the program, including claims processing. Reasonable cost is defined as the actual cost incurred by the Medi-Cal managed care health plan, including both direct and indirect costs incurred by the Medi-Cal managed care health plan, in the performance of administrative services, but shall not include any incurred costs found by the State Department of Health Care Services to be unnecessary for the efficient delivery of necessary health services. Payment for administrative services shall continue on a reasonable cost basis until sufficient cost experience exists to allow these costs to be part of an all-inclusive capitation rate covering both administrative services and direct patient care services.

(c) Until the State Department of Health Care Services is able to determine by actuarial methods, prospective per capita rates of payment for services for those members who enroll in the Medi-Cal managed care health plans specified in subdivision (a), the State Department of Health Care Services shall reimburse the

AB 203 adds this section by requiring Medi-Cal managed health care plans to pay for medical and specialty care that cannot be met using the Medi-Cal Fee for Service system and allow for reimbursement by the Department of Health Care Services. This section also allows for reimbursement of reasonable cost of administrative services. This section also stipulates that implementation occurs when federal financial participation is available after all necessary federal approvals.

Medi-Cal managed care health plans for the net reasonable cost of direct patient care services and supplies set forth in the scope of services in the contract between the Medi-Cal managed care health plans and the State Department of Health Care Services and that are not reimbursed by the Medicare Program. Net reasonable cost is defined as the actual cost incurred by the Medi-Cal managed care health plans, as measured by the Medi-Cal managed care health plan's payments to providers of services and supplies, less payments made to the plans by third parties other than Medicare, and shall not include any incurred cost found to be unnecessary by the State Department of Health Care Services in the efficient delivery of necessary health services. Reimbursement shall be accomplished by the State Department of Health Care Services making estimated payments at reasonable intervals, with these estimates being reconciled to actual net reasonable cost at least semiannually.

(d) The State Department of Health Care Services shall seek any approval necessary for implementation of this section from the federal government, for purposes of federal financial participation under Title XIX of the Social Security Act (42 U.S.C. Sec. 1396 et seq.). Notwithstanding any other provision of law, this section shall be implemented only to the extent that federal financial participation is available pursuant to necessary federal approvals.

4474.8. Notwithstanding any other provision of law to the contrary, the State Department of Developmental Services shall continue the operation of the Agnews Outpatient Clinic until such time as the State Department of Developmental Services is no longer responsible for the property.

AB 203 adds this section to require the continued operation of the Agnews Outpatient Clinic until the Department is no longer responsible for the property.

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 1 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 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.

(3) Commencing January 1, 2004, to June 30, 2007~~8~~, inclusive, the following coordinator-to-consumer ratios shall apply:

(A) All consumers three years of age and younger and for consumers enrolled on the Home and Community-based Services Waiver for persons with developmental disabilities, an average service coordinator-to-consumer ratio of 1 to 62.

(B) All consumers who have moved from a developmental center to the community since April 14, 1993, and have lived continuously in the community for at least 12 months, an average service coordinator-to-consumer ratio of 1 to 62.

(C) All consumers who have not moved from the developmental centers to the community since April 14, 1993, and who are not described in subparagraph (A), an average service coordinator-to-consumer ratio of 1 to 66.

(4) For purposes of paragraph (3), service coordinators may have a mixed caseload of consumers three years of age and younger, consumers enrolled on the Home and Community-based Services Waiver program for persons with developmental disabilities, and other consumers if the overall average caseload is weighted proportionately to ensure that overall regional center average service coordinator-to-consumer ratios as specified in paragraph (3) are met. For purposes of paragraph (3), in no case shall a service coordinator have an assigned caseload in excess of 84 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, annually for each fiscal year. The data shall be submitted in the format, including the content, prescribed by the department.

AB 203 amends this section by extending a time frame.

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 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.

(D) Consumers enrolled in the Home and Community-based Services Waiver program.

(3) Not include positions that are vacant for more than 60 days or new positions established within 60 days of the reporting month that are still vacant.

(4) For purposes of calculating caseload ratios for consumers enrolled in the Home- and Community-based Services Waiver program, vacancies shall not be included in the calculations.

(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. 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, 2007~~8~~, 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 and after July 1, 2007~~8~~, 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 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.

AB 203 amends this section by extending time frames.

4648.4. (a) Notwithstanding any other provision of law or regulation, commencing July 1, 2006, rates for services listed in paragraphs (1), (2), with the exception of travel reimbursement, (3) to (8), inclusive, (10), and (11) of subdivision (b), shall be increased by 3 percent, subject to funds specifically appropriated for this increase in the Budget Act of 2006. The increase shall be applied as a percentage, and the percentage shall be the same for all providers. Any subsequent change shall be governed by subdivision (b).

AB 203 amends this section by extending time frames.

(b) Notwithstanding any other provision of law or regulation, except for subdivision (a), during the ~~2006-07~~ 2007-08 fiscal year, no regional center may pay any provider of the following services or supports a rate that is greater than the rate that is in effect on or after July 1, 2007~~6~~, unless the increase is required by a contract between the regional center and the vendor that is in effect on June 30, 2007~~6~~, or the regional center demonstrates

that the approval is necessary to protect the consumer's health or safety and the department has granted prior written authorization:

- (1) Supported living services.
- (2) Transportation, including travel reimbursement.
- (3) Socialization training programs.
- (4) Behavior intervention training.
- (5) Community integration training programs.
- (6) Community activities support services.
- (7) Mobile day programs.
- (8) Creative art programs.
- (9) Supplemental day services program supports.
- (10) Adaptive skills trainers.
- (11) Independent living specialists.

4681.5. Notwithstanding any other provision of law or regulation, during the ~~2006-07~~ 2007-08 fiscal year, no regional center may approve any service level for a residential service provider, as defined in Section 56005 of Title 17 of the California Code of Regulations, if the approval would result in an increase in the rate to be paid to the provider that is greater than the rate that is in effect on July 1, 2007, unless the regional center demonstrates to the department that the approval is necessary to protect the consumer's health or safety and the department has granted prior written authorization.

AB 203 amends this section by extending time frames.

4684. (a) Notwithstanding any other provision of law, the cost of providing 24-hour out-of-home nonmedical care and supervision in community care facilities licensed or approved pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code shall be funded by the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program pursuant to Section 11464, for children who are both AFDC-FC recipients and regional center consumers.

(b) The cost of providing adoption assistance benefits, shall be funded by the Adoption Assistance Program (AAP) under Section 16121, for children who are both AAP recipients and regional center consumers.

(c) (1) For regional center consumers who are recipients of AFDC-FC benefits, regional centers shall purchase or secure the services that are contained in the child's Individualized Family Service Plan (IFSP) or Individual Program Plan (IPP), but which are not allowable under federal or state AFDC-FC provisions.

(2) For regional center consumers who are recipients of AAP benefits, regional centers shall purchase or secure the services that are contained in the child's IFSP or IPP.

(3) For regional center consumers receiving services under paragraph (1) or (2), these services shall be separately purchased or secured by the regional center, pursuant to Sections 4646 to 4648, inclusive, and Section 4685, and pursuant to Sections 95018 and 95020 of the Government Code. AFDC-FC and AAP benefits shall not be counted toward the gross income calculated for the purposes of the Family Cost Participation Program pursuant to Section 4783. Recipients of AFDC-FC benefits shall not be subject to the Family Cost Participation Program requirements.

(4) Regional centers shall accept referrals for evaluations of AFDC-FC-eligible children and children receiving AAP benefits for the purpose of determining eligibility for regional center services, pursuant to Section 4642. Regional centers shall assist county welfare and probation departments in identifying appropriate placement resources for children who are recipients of AFDC-FC and who are eligible for regional center services.

(d) (1) For purposes of this section, children who are recipients of AFDC-FC and regional center services who are residing with a relative or nonrelative extended family member pursuant to paragraph (2) of subdivision (f) of Section 319 or Section 362.7, or a facility defined in paragraph (5) or (6) of subdivision (a) of Section 1502 of the Health and Safety Code that is not vendored by the regional center as a residential facility, shall

SB 84 amends this section by requiring that benefits provided to children who are both AAP recipients and regional center consumers shall be funded by the Adoption Assistance Program. This section also requires regional centers to purchase or secure IFSP or IPP services not allowable under federal or state AFDC-FC requirements and also requires the regional centers to assist county welfare and probation departments in coordinating services and establishes statutory authority for the promulgation of emergency regulations.

not be prohibited from receiving services defined in paragraph (38) of subdivision (a) of Section 54302 of Title 22 of the California Code of Regulations. (2) AFDC-FC and AAP benefits shall be for care and supervision, as defined in subdivision (b) of Section 11460, and the regional centers shall separately purchase or secure other services contained in the child's IFSP or IPP pursuant to Section 4646 to 4648, inclusive, Section 4685, and Sections 95018 and 95020 of the Government Code. Notwithstanding any other provision of law or regulation, the receipt of AFDC-FC or AAP benefits shall not be cause to deny any other services that a child or family for which the child or family is otherwise eligible pursuant to this division.

(e) This section shall apply to all recipients of AFDC-FC and AAP benefits, including those with rates established prior to the effective date of the act that adds this subdivision, pursuant to Sections 11464 and 16121.

(f) Regulations adopted by the department pursuant to this section shall be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare.

~~Regional centers shall pay the cost of services which they authorize for AFDC-FC recipients but which are not allowable under state or federal AFDC-FC program requirements. Regional centers shall accept referrals for evaluations of AFDC-FC eligible children and assist county welfare probation departments in identifying appropriate placement resources for children who are eligible for regional center services.~~

4691.6. (a) Notwithstanding any other provision of law or regulation, commencing July 1, 2006, the community-based day program, work activity program, and in-home respite service agency rate schedules authorized by the department and in operation June 30, 2006, shall be increased by 3 percent, subject to funds specifically appropriated for this increase in the Budget Act of 2006. The increase shall be applied as a percentage, and the percentage shall be the same for all providers. Any subsequent increase shall be governed by subdivisions (b), (c), (d), and (e).

(b) Notwithstanding any other provision of law or regulation,

during the ~~2007-08~~ ~~2006-07~~ fiscal year, the department may not establish any permanent payment rate for a community-based day program or in-home respite service agency provider that has a temporary payment rate in effect on July 1, 2007~~6~~, if the permanent payment rate would be greater than the temporary payment rate in effect on or after July 1, 2007~~6~~, unless the regional center demonstrates to the department that the permanent payment rate is necessary to protect the consumers' health or safety.

AB 203 amends this section by extending time frames.

(c) Notwithstanding any other provision of law or regulation, during the ~~2007-08~~ ~~2006-07~~ fiscal year, neither the department nor any regional center may approve any program design modification or revendorization for a community-based day program or in-home respite service agency provider that would result in an increase in the rate to be paid to the vendor from the rate that is in effect on or after July 1, 2007~~6~~, unless the regional center demonstrates that the program design modification or revendorization is necessary to protect the consumers' health or safety and the department has granted prior written authorization.

(d) Notwithstanding any other provision of law or regulation, during the ~~2007-08~~ ~~2006-07~~ fiscal year, the department may not approve an anticipated rate adjustment for a community-based day program or in-home respite service agency provider that would result in an increase in the rate to be paid to the vendor from the rate that is in effect on or after July 1, 2007~~6~~, unless the regional center demonstrates that the anticipated rate adjustment is necessary to protect the consumers' health or safety.

(e) Notwithstanding any other provision of law or regulation, during the ~~2007-08~~ ~~2006-07~~ fiscal year, the department may not approve any rate adjustment for a work activity program that would result in an increase in the rate to be paid to the vendor from the rate that is in effect on or after July 1, 2007~~6~~, unless the regional center demonstrates that the rate adjustment is necessary to protect the consumers' health and safety and the department has granted prior written authorization.

4781.5. (a) For the ~~2007-08~~ ~~2006-07~~ fiscal year only, a regional center may not expend any purchase of service funds for the startup of any new program unless one of the following criteria is met:

AB 203 amends this section by extending time frames.

(1) The expenditure is necessary to protect the consumer's health or safety or because of other extraordinary circumstances.

(2) The program to be developed promotes and provides integrated supported work options for individuals or groups of no more than three consumers.

(3) The program to be developed promotes and provides integrated social, civic, volunteer, or recreational activities.

(b) Notwithstanding subdivision (a), a regional center may approve grants for the 2007-08 ~~2006-07~~ fiscal year only to current providers to engage in new or expanded employment activities that result in greater integration, conversion from sheltered to supported work environments, self-employment, and increased consumer participation in the federal Ticket to Work program.

(c) Startup contracts for programs funded under this section shall be outcome-based.

(d) The department shall develop criteria by which regional centers shall approve grants, and shall provide prior written authorization for the expenditures under this section.

(e) This section shall not apply to any of the following:

(1) The purchase of services funds allocated as part of the department's community placement plan process.

(2) Expenditures for the startup of new programs made pursuant to a contract entered into before July 1, 2002.

4781.6. (a) For the 2007-08 fiscal year only, a regional center shall 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 extraordinary circumstances, and the department has granted prior written authorization for the expenditures.
(b) This section does not apply to the purchase of services funds allocated as part of the department's community placement plan process.

AB 203 adds this section to prohibit regional centers from expending any purchase of service funds for program start up except under certain circumstances to protect the consumer's health or safety.

