

# 2008 LEGISLATIVE SESSION

IMPACT  
OF

*AB 5 (Third Extraordinary Session), AB 1183,  
SB 1175 and SB 1774  
ON SERVICES FOR PEOPLE WITH  
DEVELOPMENTAL DISABILITIES*



## INTRODUCTION

During the 2008 Legislative session, provisions of the Welfare and Institutions Code were amended or added by four pieces of legislation as follows:

Assembly Bill 5, Chapter 3, Statutes of 2008 (Third Extraordinary Session)  
Assembly Bill 1183, Chapter 758, Statutes of 2008  
Senate Bill 1175, Chapter 617, Statutes of 2008  
Senate Bill 1774, Chapter 419, Statutes of 2008

This document was prepared to identify significant statutory changes that occurred in the 2008 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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**The following is a compilation of the amendments made by:  
Assembly Bill 5, Chapter 3, Statutes of 2008 (Third Extraordinary Session)  
Assembly Bill 1183, Chapter 758, Statutes of 2008 (Effective September 30, 2008)  
Senate Bill SB 1175, Chapter 617, Statutes of 2008  
Senate Bill 1774, Chapter 419, Statutes of 2008**

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 31 ~~29~~ voting members on the state council appointed by the Governor, as follows:

Increases the number of state council voting members from 29 to 31 (SB 1774)

(1) One member from each of the 13 Area Boards on Developmental Disabilities (area board) 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.

Increase as a result of increasing the number of university representatives (SB 1774)

(2) Eleven ~~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.

Increases the number of university representatives from two to three. (SB 1774)

(F) One representative from each of the three ~~two~~ university centers for excellence in the state, pursuant to Section 15061 et seq. of Title 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 Care Services or his or her Chief Deputy.

Updates the department name. (SB 1774)

(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.

Eliminates the chief deputy as a specific designee and allows the director to appoint a designee of choice. (SB 1774)

(I) The Director of Aging or his or her designee ~~chief deputy~~.

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

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

Increases the number of persons with developmental disabilities as members of the state council from two to three. (SB 1774)

(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 31 ~~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 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.

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

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

Directs the designee to act on behalf of the member and requires the designee to be counted in constituting a quorum. (SB 1774)

Replaces the chief deputy with designee of choice. (SB 1774)

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, 2008, 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

Eliminates the sunset date, and continues indefinitely caseload ratios for those consumers who are not on the Home and Community-Based Services Waiver. (AB 5, Third Extraordinary Session)

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 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, 2008~~, 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, 2008, the assessment shall be performed within 60 days~~

Eliminates the sunset date for intake and assessment timelines, thereby changing indefinitely intake and assessment timelines to 120 days from 60 days. (AB 5, Third Extraordinary Session)

~~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.

SEC. 21.5. Section 4646.4 is added to the Welfare and Institutions Code, to read:

4646.4. (a) Effective September 1, 2008, regional centers shall ensure, at the time of development, scheduled review, or modification of a consumer's individual program plan developed pursuant to Sections 4646 and 4646.5, or of an individualized family service plan pursuant to Section 95020 of the Government Code, the establishment of an internal process. This internal process shall ensure adherence with federal and state law and regulation, and when purchasing services and supports, shall ensure all of the following:

Requires the regional center to establish an internal review process of individual program plans and individualized family service plans to ensure conformity with federal and state law and regulations. (AB 1183)

(1) Conformance with the regional center's purchase of service policies, as approved by the department pursuant to subdivision (d) of Section 4434.

(2) Utilization of generic services and supports when appropriate.

(3) Utilization of other services and sources of funding as contained in Section 4659.

(4) Consideration of the family's responsibility for providing similar services and supports for a minor child without disabilities in identifying the consumer's service and support needs as provided in the least restrictive and most appropriate setting. In this determination, regional centers shall take into account the consumer's need for extraordinary care, services, supports and supervision, and the need for timely access to this care.

(b) Final decisions regarding the consumer's individual program plan shall be made pursuant to Section 4646.

(c) Final decisions regarding the individual family support plan shall be made pursuant to Section 95020 of the Government Code.

(d) By no later than April 1, 2009, the department shall provide the fiscal and policy committees of the Legislature with a written update regarding the implementation of this section.

Requires the department to report to the Legislature with an update on

implementation of this section. The report must be submitted no later than April 1, 2009. (AB 1183)

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).

(b) Notwithstanding any other provision of law or regulation, except for subdivision (a), ~~during the 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 June 30, 2008 ~~July 1, 2007~~, unless the increase is required by a contract between the regional center and the vendor that is in effect on June 30, 2008~~7~~, 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:

Prohibits regional centers from paying providers a rate greater than the rate in effect on or after June 30, 2008. (AB 5, Third Extraordinary Session)

- (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.

4681.3. (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 Sections 4681.5 and 4681.6.

Provides authority for the Department to freeze negotiated rates for residential facilities and continues, indefinitely, the freeze on residential service level changes at the level that is in effect on June 30, 2008 (AB 5, Third Extraordinary Session)

4681.5. Notwithstanding any other provision of law or regulation, during the 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 June 30, 2008 ~~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.

Amends this section to retain residential rates at the levels that were in effect as of June 30, 2008. (AB 5, Third Extraordinary Session)

4681.6. Notwithstanding any other provision of law or regulation, commencing July 1, 2008:

(a) No regional center may pay an existing residential service provider, for services where rates are determined through a negotiation between the regional center and the provider, a rate higher than the rate in effect on June 30, 2008, unless the increase is required by a contract between the regional center and the vendor that is in effect on June 30, 2008, 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.

(b) No regional center may negotiate a rate with a new residential service provider, for services where rates are determined through a negotiation between the regional center and the provider, that is higher than the regional center’s median rate for the same service code and unit of service, or the statewide median rate for the same service code and unit of service, whichever is lower. The unit of service designation must conform with an existing regional center designation or, if none exists, a designation used to calculate the statewide median rate for the same service. The regional center shall annually certify to the department its median rate for each negotiated rate service code, by designated unit of service. This certification will be subject to verification through the department’s biennial fiscal audit of the regional center.

(c) For purposes of this section, “residential service provider” includes Adult Residential Facilities for Persons with Special Health Care Needs, as described in Section 4684.50.

(d) This section shall not apply to those services for which rates are determined by the State Department of Health Care Services, or the State Department of Developmental Services, or

Adds this section by freezing rates for all Specialized Residential Facilities including Habilitation, Health, and the Adult Residential Facility for Persons with Special Health Care Needs. Also limits starting rates for new Specialized Residential Facilities to either the regional center’s average rate for similar services or the statewide average rate for similar services, whichever is lower. This limit begins on July 1, 2008. (AB 5, Third Extraordinary Session)

are usual and customary.

SEC. 2. Section 4688.6 is added to the Welfare and Institutions Code, to read:

4688.6. (a) Notwithstanding any other provision of law to the contrary, the department may receive and approve a proposal or proposals by any regional center to provide for, secure, or assure the full payment of a lease or leases on housing based on the availability for occupancy in each home. These proposals shall not include an adult residential facility for persons with special health care needs, as defined in Section 1567.50 of the Health and Safety Code. Proposals submitted by regional centers shall meet all of the following conditions:

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

(2) The regional center has submitted documents demonstrating the appropriate credentials and terms of the project and has approved the proposed nonprofit ownership entity, management entity, and developer or development entity for each project.

(3) The costs associated with the proposal are reasonable and maximize the receipt of federal Medicaid funding. The department shall only approve proposals that include a process for the regional center to review recent sales of comparable properties to ensure the purchase price is within the range of fair market value and, if significant renovations of a home will be undertaken after the home is purchased, competing bids for that renovation work to ensure that the cost of the work is reasonable. For purposes of this subdivision, "significant renovations" means renovations that exceed 5 percent of the purchase price of the home.

(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.

(5) The regional center has submitted, with the proposal, the nonrefundable developer fee established in subdivision (d).

(b) Prior to approving a regional center proposal pursuant to subdivision (a), the department may contract or consult with a public or private sector entity that has appropriate experience in structuring complex real estate financial transactions, but is not otherwise involved in any lending related to the project to review any of the following:

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

Allows the department to receive and approve regional center proposals for housing based on the availability for occupancy in each home. These proposals exclude housing for adult residential facilities for persons with special health care needs (SB 962 homes). (SB 1175)

Specifies conditions that must be met by the regional center when submitting the proposals. (SB 1175)

Permits the department to consult with experienced public or private entities prior to approval of the proposals. (SB 1175)

(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) The department may impose a limit on the number of proposals considered pursuant to subdivision (a). If a limit is imposed, the department shall notify the Association of Regional Center Agencies.

Allows the department to limit the number of proposals to be considered. (SB 1175)

(d) (1) The department shall charge the developer of the housing described in the regional center proposal a reasonable, nonrefundable fee for each proposal submitted. The fee shall be for the purpose of reimbursing the department's costs associated with conducting the review and approval required by subdivision (b). The fee shall be set by the department within 30 days of the effective date of the act that added this section, and shall be adjusted annually, as necessary, to ensure the payment of the costs incurred by the department.

Allows the department to collect developer fees. (SB 1175)

(2) Fees collected shall be deposited in the Developmental Disabilities Services Account established pursuant to Section 14672.9 of the Government Code and shall be used solely for the purpose of conducting the review and approval required by subdivision (b), upon appropriation by the Legislature. Interest and dividends on moneys collected pursuant to this section shall, notwithstanding Section 16305.7 of the Government Code, be retained in the account for purposes of this section. Moneys deposited in the Developmental Disabilities Services Account pursuant to this subdivision shall not be subject to the requirements of subdivision (i) of Section 14672.9 of the Government Code.

Requires collected fees to be deposited in the Developmental Disabilities Services Account. (SB 1175)

(3) Notwithstanding paragraph (2), for the 2008-09 fiscal year, the Director of Finance may approve an expenditure of up to seventy-five thousand dollars (\$75,000) by the department from moneys deposited in the account for the purposes specified in subdivision (b). In the 2009-10 fiscal year and each fiscal year thereafter, moneys shall be available to the department upon appropriation by the Legislature.

Allows the Department of Finance to approve expenditures of up to \$75,000 by the department for consulting fees. (SB 1175)

(e) 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 regional center.

Establishes regional center restrictions during the acquisition of real property. (SB 1175)

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

(g) At least 30 days prior to granting approval under subdivision (e), the department shall provide notice to the chairs and vice chairs of the fiscal committees of the Assembly and the Senate and the Director of Finance.

Requires departmental notification to legislative members and the Director of Finance. (SB 1175)

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

Regional center restrictions on the purchase of real property. (SB 1175)

(i) Unless otherwise authorized by law, a regional center shall not use purchase of service funds to implement this section.

(j) With the exception of funds authorized in paragraph (3) of subdivision (d), this section shall be implemented within the department's annual budget. This subdivision shall not preclude the receipt or use of federal, state non-General Fund, or private funds to implement this section.

Requires the department to implement this section within its annual budget. (SB 1175)

(k) The department shall establish guidelines and procedures for the administration of this section.

Requires the department to establish procedures for the administration of this section. (SB 1175)

4689.8. Notwithstanding any other provision of law or regulation, commencing July 1, 2008:

(a) No regional center may pay an existing supported living service provider, for services where rates are determined through a negotiation between the regional center and the provider, a rate higher than the rate in effect on June 30, 2008, unless the increase is required by a contract between the regional center and the vendor that is in effect on June 30, 2008, 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.

Adds this language to freeze the rates for all existing supported living providers to the rate in effect on June 30, 2008. (AB 5, Third Extraordinary Session)

(b) No regional center may negotiate a rate with a new supported living service provider, for services where rates are determined through a negotiation between the regional center and the provider, that is higher than the regional center's median rate for the same service code and unit of service, or the statewide median rate for the same service code and unit of service, whichever is lower. The unit of service designation shall conform with an existing regional center designation or, if none exists, a designation used to calculate the statewide median rate for the same service. The regional center shall annually certify to the State Department of Developmental Services its median rate for each negotiated rate service code, by designated unit of service. This certification shall be subject to verification through the department's biennial fiscal audit of the regional center.

Also provides that starting rates for new service providers be limited to either the regional center's average rate for similar services or the statewide average rate for similar services, whichever is lower. This becomes effective July 1, 2008. (AB 5, Third Extraordinary Session)

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) and Section 4691.9.

(b) Notwithstanding any other provision of law or regulation, during the 2007-08 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, 2008 ~~July 1, 2007,~~ if the permanent payment rate would be greater than the temporary payment rate in effect on or after June 30, 2008 ~~July 1, 2007,~~ unless the regional center demonstrates to the department that the permanent payment rate is necessary to protect the consumers' health or safety.

(c) Notwithstanding any other provision of law or regulation, during the 2007-08 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, 2008 ~~July 1, 2007,~~ 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 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, 2008 ~~July 1, 2007,~~ 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 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 June 30, 2008 ~~July 1, 2007,~~ unless the

Provides the authority for the Department to maintain indefinitely the rate of payment for these services at the rate that is in effect as of June 30, 2008. (AB 5, Extraordinary Session)

regional center demonstrates that the rate adjustment is necessary to protect the consumers' health and safety and the department has granted prior written authorization.

4691.9. Notwithstanding any other provision of law or regulation, commencing July 1, 2008:

(a) No regional center shall pay an existing service provider, for services where rates are determined through a negotiation between the regional center and the provider, a rate higher than the rate in effect on June 30, 2008, unless the increase is required by a contract between the regional center and the vendor that is in effect on June 30, 2008, 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.

(b) No regional center may negotiate a rate with a new service provider, for services where rates are determined through a negotiation between the regional center and the provider, that is higher than the regional center's median rate for the same service code and unit of service, or the statewide median rate for the same service code and unit of service, whichever is lower. The unit of service designation must conform with an existing regional center designation or, if none exists, a designation used to calculate the statewide median rate for the same service. The regional center shall annually certify to the State Department of Developmental Services its median rate for each negotiated rate service code, by designated unit of service. This certification will be subject to verification through the department's biennial fiscal audit of the regional center.

(c) This section shall not apply to those services for which rates are determined by the State Department of Health Care Services, or the State Department of Developmental Services, or are usual and customary.

Adds language providing authority for the Department to freeze rates for all negotiated-rate services not previously addressed by other cost containment measures. Also provides that starting rates for new service providers be limited to either the regional center's median rate for similar services or the statewide median rate for similar services, whichever is lower, beginning on July 1, 2008. (AB 5, Third Extraordinary Session)

~~4781.6. (a) For the 2007-08 fiscal year only, a~~ 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.

Indefinitely restricts the use of purchase of service funds for starting new programs except extraordinary circumstances or to protect consumer health and safety. (AB 5, Third Extraordinary Session)

4783. (a) (1) The Family Cost Participation Program is hereby created in the State Department of Developmental Services for the purpose of assessing a cost participation to parents, as defined in Section 50215 of Title 17 of the California Code of Regulations, who have a child to whom all of the following applies:

(A) The child has a developmental disability or is eligible for services under the California Early Intervention Services Act.

(B) The child is zero ~~three~~ years of age through 17 years of age.

(C) The child lives in the parents' home.

(D) The child receives services and supports purchased through the regional center.

(E) The child is not eligible for Medi-Cal.

(2) Notwithstanding any other provision of law, a parent described in subdivision (a) shall participate in the Family Cost Participation Program established pursuant to this section.

~~(3) Application of this section to children zero through two years of age shall be contingent upon approval by the United States Department of Education.~~

(b) (1) The department shall develop and establish a Family Cost Participation Schedule that shall be used by regional centers to assess the parents' cost participation. The schedule shall consist of a sliding scale for families with an annual gross income not less than 400 percent of the federal poverty guideline, and be adjusted for the level of annual gross income and the number of persons living in the family home.

(2) The schedule established pursuant to this section shall be exempt from the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) Family cost participation assessments shall only be applied to respite, day care, and camping services that are included in the child's individual program plan or individual family service plan for children zero through two years of age.

(d) If there is more than one minor child living in the parents' home and receiving services or supports paid for by the regional center, or living in a 24-hour out-of-home facility, including a developmental center, the assessed amount shall be adjusted as follows:

(1) A parent that meets the criteria specified in subdivision (b) with two children shall be assessed at 75 percent of the respite, day care, and camping services in each child's individual program plan or individualized family service plan for each child living at home.

(2) A parent that meets the criteria specified in subdivision (b)

Amends this section to include early start consumers under the Family Cost Participation Program. (AB 1183)

with three children shall be assessed at 50 percent of the respite, day care, and camping services included in each child's individual program plan or individualized family service plan for each child living at home.

(3) A parent that meets the criteria specified in subdivision (b) with four children shall be assessed 25 percent of the respite, day care, and camping services included in each child's individual program plan or individualized family service plan for each child living at home.

(4) A parent that meets the criteria specified in subdivision (b) with more than four children shall be exempt from participation in the Family Cost Participation Program.

(e) For each child, the amount of cost participation shall be less than the amount of the parental fee that the parent would pay if the child lived in a 24-hour, out-of-home facility.

(f) Commencing January 1, 2005, each regional center shall be responsible for administering the Family Cost Participation Program.

(g) Family cost participation assessments or reassessments shall be conducted as follows:

(1)(A) ~~By December 31, 2005, a~~ A regional center shall assess the cost participation for all parents of current consumers who meet the criteria specified in this section. A regional center shall use the most recent individual program plan or individualized family service plan for this purpose.

(B) A regional center shall assess the cost participation for parents of newly identified consumers at the time of the initial individual program plan or the individualized family service plan.

(C) Reassessments for cost participation shall be conducted as part of the individual program plan or individual family service plan review pursuant to subdivision (b) of Section 4646 or subdivision (f) of Section 95020 of the Government Code.

(D) The parents are responsible for notifying the regional center when a change in family income occurs that would result in a change in the assessed amount of cost participation.

(2) Parents shall self-certify their gross annual income to the regional center by providing copies of W-2 Wage Earners Statements, payroll stubs, a copy of the prior year's state income tax return, or other documents and proof of other income.

(3) A regional center shall notify parents of the parents' assessed cost participation within 10 working days of receipt of the parents' complete income documentation.

(4) Parents who have not provided copies of income documentation pursuant to paragraph (2) shall be assessed the maximum cost participation based on the highest income level adjusted for family size until such time as the appropriate income

documentation that is provided. Parents who subsequently provide income documentation that results in a reduction in their cost participation shall be reimbursed for the actual cost difference incurred for services identified in the individual program plan or individualized family service plan for respite, day care, and camping services, for 90 calendar days preceding the reassessment. The actual cost difference is the difference between the maximum cost participation originally assessed and the reassessed amount using the parents' complete income documentation, that is substantiated with receipts showing that the services have been purchased by the parents.

(5) The executive director of the regional center may grant a cost participation adjustment for parents who incur an unavoidable and uninsured catastrophic loss with direct economic impact on the family or who substantiate, with receipts, significant unreimbursed medical costs associated with care for a child who is a regional center consumer. A redetermination of the cost participation adjustment shall be made at least annually.

(h) A provider of respite, day care, or camping services shall not charge a rate for the parents' share of cost that is higher than the rate paid by the regional center for its share of cost.

(i) The department shall develop, and regional centers shall use, all forms and documents necessary to administer the program established pursuant to this section. The forms and documents shall be posted on the department's Web site. A regional center shall provide appropriate materials to parents at the initial individual program plan or individualized family service plan meeting and subsequent individual program plan or individualized family service plan review meetings. These materials shall include a description of the Family Cost Participation Program.

(j) The department shall include an audit of the Family Cost Participation Program during its audit of a regional center.

(k) (1) Parents of children ages three through 17 years of age may appeal an error in the amount of the parents' cost participation to the executive director of the regional center within 30 days of notification of the amount of the assessed cost participation. The parents may appeal to the Director of Developmental Services, or his or her designee, any decision by the executive director made pursuant to this subdivision within 15 days of receipt of the written decision of the executive director.

(2) Parents of children ages three through 17 years of age who dispute the decision of the executive director pursuant to paragraph (5) of subdivision (g) shall have a right to a fair hearing as described in, and the regional center shall provide

notice pursuant to, Chapter 7 (commencing with Section 4700). This paragraph shall become inoperative on July 1, 2006.

(3) On and after July 1, 2006, a parent described in paragraph (2) shall have the right to appeal the decision of the executive director to the Director of Developmental Services, or his or her designee, within 15 days of receipt of the written decision of the executive director.

(l) For parents of children ages zero through two years of age, inclusive the complaint, mediation, and due process procedures set forth in Sections 52170 to 52174, inclusive, of Title 17 of the California Code of Regulations shall be used to resolve disputes regarding this section.

(m) The department may adopt emergency regulations to implement this section. 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 department 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 subdivision.

(n) By April 1, 2005, and annually thereafter, the department shall report to the appropriate fiscal and policy committees of the Legislature on the status of the implementation of the Family Cost Participation Program established under this section. On and after April 1, 2006, the report shall contain all of the following:

(1) The annual total purchase of services savings attributable to the program per regional center.

(2) The annual costs to the department and each regional center to administer the program.

(3) The number of families assessed a cost participation per regional center.

(4) The number of cost participation adjustments granted pursuant to paragraph (5) of subdivision (g) per regional center.

(5) The number of appeals filed pursuant to subdivision (k) and the number of those appeals granted, modified, or denied.

~~(n) This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.~~

Deletes the sunset date for this section.  
(AB 1183)

4860. (a) (1) The hourly rate for supported employment services provided to consumers receiving individualized services shall be thirty dollars and eighty-two cents (\$30.82) ~~thirty-four dollars and twenty-four cents (\$34.24)~~.

Reduces the hourly rate for supported employment services from \$34.24 to \$30.82. (AB 1183)

(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 dollars and eighty-two cents (\$30.82) ~~thirty-four dollars and twenty-four cents (\$34.24)~~, 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.

Reduces the hourly rate for group services from \$34.42 to \$30.82. (AB 1183)

(c) Job coaching hours for group services shall be allocated 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 three-hundred-sixty-dollar (\$360) ~~four hundred dollar (\$400)~~ 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.

Reduces program provider intake fees from \$400 to \$360. (AB 1183)

(2) An seven-hundred-twenty-dollar (\$720) ~~eight hundred dollar (\$800)~~ 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.

Reduces the job placement fee from \$800 to \$720. (AB 1183)

(3) An seven-hundred-twenty-dollar (\$720) ~~eight hundred dollar (\$800)~~ 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

Reduces the 90-day retention fee from \$800 to \$720. (AB 1183)

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.

## CHANGES OUTSIDE OF THE LANTERMAN ACT

Amends Government Code Section 95004 as follows:

95004. The early intervention services specified in this title shall be provided as follows:

(a) Direct services for eligible infants and toddlers and their families shall be provided pursuant to the existing regional center system under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and the existing local education agency system under appropriate sections of Part 30 (commencing with Section 56000) of the Education Code and regulations adopted pursuant thereto, and Part C of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431 et seq.).

(b) (1) In providing services under this title, regional centers shall comply with the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code, and its implementing regulations (Division 2 (commencing with Section 50201) of Title 17 of the California Code of Regulations) including, but not limited to, those provisions relating to vendorization and ratesetting, *and the Family Cost Participation Program*, except where compliance with those provisions would result in any delays in, ~~or any cost to the families for,~~ the provision of early intervention, or otherwise conflict with this title and the regulations implementing this title (Chapter 2 (commencing with Section 52000) of Division 2 of Title 17 of the California Code of Regulations), or Part C of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1431) et seq., and applicable federal regulations contained in Part 303 (commencing with Section 303.1) of Title 34 of the Code of Federal Regulations.

(2) When compliance with this subdivision would result in any delays in the provision of early intervention services ~~or costs to families~~ for the provision of any of these services, the department may authorize a regional center to use a special service code that allows immediate procurement of the service.

(c) Services shall be provided by family resource centers that provide, but are not limited to, parent-to-parent support,

The Family Cost Participation Program Applies to Early Start (AB5, Third Extraordinary Session)

information dissemination and referral, public awareness, family professional collaboration activities, and transition assistance for families.

(d) Existing obligations of the state to provide these services at state expense shall not be expanded.

(e) It is the intent of the Legislature that services be provided in accordance with Sections 303.124, 303.126, and 303.527 of Title 34 of the Code of Federal Regulations.