An act to amend Sections 4640.6 and 4791 of the Welfare and Institutions Code, and to amend Section 10 of Chapter 13 of the Third Extraordinary Session of the Statutes of 2009, relating to developmental services, and declaring the urgency thereof, to take effect immediately.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. 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, the following coordinator-to-consumer ratios shall apply:

(A) All consumers three years of age and younger and for consumers enrolled in the Home and Community-based Services Waiver program 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 in 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.

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(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

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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) From February 1, 2009, to June 30, 2010, inclusive, the following shall not apply:

(1) The service coordinator-to-consumer ratio requirements of paragraph (1), and subparagraph (C) of paragraph (3), of subdivision (c).

(2) The requirements of subdivision (e). The regional centers shall, instead, maintain sufficient service coordinator caseload data to document compliance with the service coordinator-to-consumer ratio requirements in effect pursuant to this section.

(3) The requirements of paragraphs (1) to (6), inclusive, of subdivision (g).

(j) From July 1, 2010, to June 30, ~~2011,~~ 2012, inclusive, the following shall not apply:

(1) The service coordinator-to-consumer ratio requirements of paragraph (1), and subparagraph (C) of paragraph (3), of subdivision (c).

(2) The requirements of paragraphs (1) to (6), inclusive, of subdivision (g).

(k) (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.

SEC. 2. Section 4791 of the Welfare and Institutions Code is amended to read:

4791. (a) Notwithstanding any other provision of law or regulation, between July 1, 2010, and June 30, ~~2011,~~ 2012, inclusive, regional centers may temporarily modify personnel requirements, functions, or qualifications, or staff training requirements for providers, except for licensed or certified residential providers, whose payments are reduced by 4.25 percent pursuant to the amendments to Section 10 of Chapter 13 of the Third Extraordinary Session of the Statutes of 2009, ~~as contained in Section 164 of the act that adds this section~~ as amended by Section 164 of Chapter 717 of the Statutes of 2010.

(b) A temporary modification pursuant to subdivision (a), effective during any agreed upon period of time between July 1, 2010, and June 30, ~~2011,~~ 2012, inclusive, may only be approved when the regional center determines that the change will not do any of the following:

(1) Adversely affect the health and safety of a consumer receiving services or supports from the provider.

(2) Result in a consumer receiving services in a more restrictive environment.

(3) Negatively impact the availability of federal financial participation.

(4) Violate any state licensing or labor laws or other provisions of Title 17 of the California Code of Regulations not eligible for modification pursuant to this section.

(c) A temporary modification pursuant to subdivision (a) shall be described in a written services contract between the regional center purchasing the services and the provider, and a copy of the written services contract and any related documentation shall be retained by the provider and the regional center purchasing the services from the provider.

(d) Notwithstanding any other provision of law or regulation, the department shall suspend, from July 1, 2010, to June 30, ~~2011,~~ 2012, inclusive, the requirements described in Sections 56732 and 56800 of Title 17 of the California Code of Regulations requiring community-based day programs and in-home respite agencies to conduct annual reviews and to submit written reports to vendoring regional centers, user regional centers, and the department.

(e) Notwithstanding any other provision of law or regulation, from July 1, 2010, to June 30, ~~2011,~~ 2012, inclusive, a residential service provider, vendored by a regional center and whose payment is reduced by 4.25 percent pursuant to the amendments to Section 10 of Chapter 13 of the Third Extraordinary Session of the Statutes of 2009, ~~as contained in Section 163 of the act that adds this section~~ as amended by Section 164 of Chapter 717 of the Statutes of 2010, shall not be required to complete quarterly and semiannual progress reports required in subdivisions (b) and (c) of Section 56026 of Title 17 of the California Code of Regulations. During program review, the provider shall inform the regional center case manager of the consumer's progress and any

barrier to the implementation of the individual program plan for each consumer residing in the residence.

SEC. 3. Section 10 of Chapter 13 of the Third Extraordinary Session of the Statutes of 2009, as amended by Section 164 of Chapter 717 of the Statutes of 2010, is amended to read:

Sec. 10. (a) Notwithstanding any other provision of law, in order to implement changes in the level of funding for regional center purchase of services, regional centers shall reduce payments for services and supports provided pursuant to Title 14 (commencing with Section 95000) of the Government Code and Division 4.1 (commencing with Section 4400) and Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code. From February 1, 2009, to June 30, 2010, inclusive, regional centers shall reduce all payments for these services and supports paid from purchase of services funds for services delivered on or after February 1, 2009, by 3 percent, and from July 1, 2010, to June 30, ~~2011,~~ 2012, inclusive, by 4.25 percent, unless the regional center demonstrates that a nonreduced payment is necessary to protect the health and safety of the individual for whom the services and supports are proposed to be purchased, and the State Department of Developmental Services has granted prior written approval.

(b) Regional centers shall not reduce payments pursuant to subdivision (a) for the following:

(1) Supported employment services with rates set by Section 4860 of the Welfare and Institutions Code.

(2) Services with "usual and customary" rates established pursuant to Section 57210 of Title 17 of the California Code of Regulations.

(3) Payments to offset reductions in Supplemental Security Income/State Supplementary Payment (SSI/SSP) benefits for consumers receiving supported and independent living services.

(c) Notwithstanding any other provision of law, in order to implement changes in the level of funding appropriated for regional centers, the department shall amend regional center contracts to adjust regional center budgets accordingly for the 2008–09 fiscal year through the ~~2010–11~~ 2011–12 fiscal year. The contract amendments and budget adjustments shall be exempt from the provisions of Article 1 (commencing with Section 4620) of Chapter 5 of Division 4.5 of the Welfare and Institutions Code.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make changes necessary for implementation of the Budget Act of 2011, it is necessary that this act take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____.

General Subject: Developmental services: regional centers.

Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is authorized to contract with regional centers to provide support and services to individuals with developmental disabilities. Under existing law, regional center contracts require certain specified staffing levels and expertise, which have been suspended from July 1, 2010, to June 30, 2011.

This bill would suspend those staffing requirements through June 30, 2012.

Under existing law, the regional centers purchase needed services for individuals with developmental disabilities through approved service providers or arrange for their provision through other publicly funded agencies. Existing law requires regional centers, in order to implement changes in the level of funding for regional center purchase of services, to reduce certain payments for services delivered by 4.25% from July 1, 2010, to June 30, 2011, except as specified, and authorizes the temporary modification of

personnel requirements, functions, or qualifications, or staff training requirements, and suspends prescribed annual review and reporting requirements for affected providers, until June 30, 2011.

This bill would continue those provisions until June 30, 2012.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.