AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 1 ON HEALTH AND HUMAN SERVICES

ASSEMBLYMEMBER DR. JOAQUIN ARAMBULA, CHAIR

WEDNESDAY, MARCH 1, 2017
2:30 P.M. - STATE CAPITOL, ROOM 444
(PLEASE MONITOR THE DAILY FILE FOR ANY POSSIBLE ROOM CHANGES.)

ITEMS TO BE HEARD

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Please note that the Commission on Disability Access (org code 8790) was erroneously listed to be heard by Sub. 1 on March 1. This Commission falls under the purview of Sub. 4 and will be heard by that committee according to its independent schedule.

LIST OF PANELISTS IN ORDER OF PRESENTATION

4300 DEPARTMENT OF DEVELOPMENTAL SERVICES

ISSUE 1: IMPLEMENTATION OF 2016 SPECIAL SESSION AUGMENTATIONS

- Nancy Bargmann, Director, and John Doyle, Chief Deputy Director, Department of Developmental Services
- Teresa Calvert, Department of Finance
- Sonja Petek, Legislative Analyst's Office
- Public Comment

ISSUE 2: OVERVIEW AND PERSPECTIVE FROM THE LAO

- Sonja Petek, Legislative Analyst's Office

ISSUE 3: ADVOCACY REQUESTS

- Timothy Hornbecker, Chair, The Lanterman Coalition
- Amy Westling, Associate Director, Association of Regional Center Agencies
- Tiffany Whiten, Long Term Care Director, California State Council of Service Employees International Union (SEIU)
- Nancy Bargmann, Director, and John Doyle, Chief Deputy Director, Department of Developmental Services
- Teresa Calvert, Department of Finance
- Sonja Petek, Legislative Analyst's Office
- Public Comment

ISSUE 4: HOME AND COMMUNITY BASED SERVICES REGULATIONS COMPLIANCE AND GOVERNOR'S TBL REQUEST #633

- Nancy Bargmann, Director, Department of Developmental Services
- Teresa Calvert, Department of Finance
- Sonja Petek, Legislative Analyst's Office
- Public Comment

ISSUE 5: REGIONAL CENTER RATES AND PENDING STUDY

- John Doyle, Chief Deputy Director, Department of Developmental Services
- Teresa Calvert, Department of Finance
- Sonja Petek, Legislative Analyst's Office
- Public Comment

ISSUE 6: CPP FUNDING, WITH GOVERNOR'S TBL REQUEST #630 AND BUDGET CHANGE PROPOSAL (BCP) #1 ON INCREASED HOUSING DEVELOPMENT WITHIN THE COMMUNITY PLACEMENT PLAN

- Nancy Bargmann, Director, Department of Developmental Services
- Teresa Calvert, Department of Finance
- Sonja Petek, Legislative Analyst's Office
- Public Comment

ISSUE 7: GOVERNOR'S TBL REQUEST #631 ON AGE 18-22 PAID INTERNSHIPS

- Nancy Bargmann, Director, Department of Developmental Services
- Teresa Calvert, Department of Finance
- Sonja Petek, Legislative Analyst's Office
- Public Comment

ISSUE 8: GOVERNOR'S TBL REQUEST #632 ON DEVELOPMENTAL SERVICE PROVIDER RATES

- John Doyle, Chief Deputy Director, Department of Developmental Services
- Teresa Calvert, Department of Finance
- Sonja Petek, Legislative Analyst's Office
- Public Comment

ISSUE 9: GOVERNOR'S TBL REQUEST #634 ON REGIONAL CENTER REPORTING OUTCOMES

- Nancy Bargmann, Director, Department of Developmental Services
- Teresa Calvert, Department of Finance
- Sonja Petek, Legislative Analyst's Office
- Public Comment

ISSUE 10: GOVERNOR'S TBL REQUEST #635 ON ENHANCED BEHAVIORAL SUPPORT HOMES EXTENSION

- Nancy Bargmann, Director, Department of Developmental Services
- Teresa Calvert, Department of Finance
- Sonja Petek, Legislative Analyst's Office
- Public Comment

ISSUE 11: GOVERNOR'S BCP #2 ON INFORMATION SECURITY AND PRIVACY SUPPORT

- John Doyle, Chief Deputy Director, Department of Developmental Services
- Teresa Calvert, Department of Finance
- Sonja Petek, Legislative Analyst's Office
- Public Comment

ISSUE 12: DC CLOSURE UPDATE

- Nancy Bargmann, Director, John Doyle, Chief Deputy Director, and Dwayne La Fon, Deputy Director, Department of Developmental Services
- Teresa Calvert, Department of Finance
- Sonja Petek, Legislative Analyst's Office
- Public Comment

ISSUE 13: GOVERNOR'S TBL REQUEST #629 ON REGIONAL CENTER CONTRACTS

- Nancy Bargmann, Director, Department of Developmental Services
- Teresa Calvert, Department of Finance
- Sonja Petek, Legislative Analyst's Office
- Public Comment

ISSUE 14: GOVERNOR'S CO BCP #1 ON NITRATE REMOVAL SYSTEM AT PORTERVILLE DC

- John Doyle, Chief Deputy Director, Department of Developmental Services
- Teresa Calvert, Department of Finance
- Sonja Petek, Legislative Analyst's Office
- Public Comment

5160 DEPARTMENT OF REHABILITATION

ISSUE 1: GOVERNOR'S REDUCTION TO INDEPENDENT LIVING CENTERS AND ADVOCACY REQUEST

- Joe Xavier, Director, and Irene Walela, Deputy Director, Department of Rehabilitation
- Justin Freitas, Department of Finance
- Assemblymember Rudy Salas
- Teresa Favuzzi, Executive Director, California Foundation for Independent Living Centers
- Ginni Bella, Legislative Analyst's Office
- Public Comment

ISSUE 2: GOVERNOR'S PROPOSAL REGARDING THE TRAUMATIC BRAIN INJURY FUND

- Joe Xavier, Director, and Irene Walela, Deputy Director, Department of Rehabilitation
- Justin Freitas, Department of Finance
- Ginni Bella, Legislative Analyst's Office
- Public Comment

ISSUE 3: GOVERNOR'S BCP ON SUPPORTED EMPLOYMENT PROGRAM: INCREASE JOB COACHING RATES

- Joe Xavier, Director, and Irene Walela, Deputy Director, Department of Rehabilitation
- Justin Freitas, Department of Finance
- Ginni Bella, Legislative Analyst's Office
- Public Comment

ISSUE 4: GOVERNOR'S BCP ON CALIFORNIA INNOVATIONS PROGRAM: FEDERAL WORK-BASED LEARNING GRANT FOR STUDENTS WITH DISABILITIES

- Joe Xavier, Director, and Irene Walela, Deputy Director, Department of Rehabilitation
- Justin Freitas, Department of Finance
- Ginni Bella, Legislative Analyst's Office
- Public Comment

ISSUE 5: GOVERNOR'S BCP ON INFORMATION SECURITY COMPLIANCE

- Joe Xavier, Director, and Irene Walela, Deputy Director, Department of Rehabilitation
- Justin Freitas, Department of Finance
- Ginni Bella, Legislative Analyst's Office
- Public Comment

ITEMS TO BE HEARD

4300 DEPARTMENT OF DEVELOPMENTAL SERVICES

ISSUE 1: IMPLEMENTATION OF 2016 SPECIAL SESSION AUGMENTATIONS

PANEL

- Nancy Bargmann, Director, and John Doyle, Chief Deputy Director, Department of Developmental Services
  - Please present a brief overview of DDS.
  - Please describe the Special Session augmentations provided in 2016 and discuss implementation of these investments, accounting, to the extent known, for impacts on services to consumers in the DD system.
- Teresa Calvert, Department of Finance
- Sonja Petek, Legislative Analyst's Office
- Public Comment

BUDGET OVERVIEW AND MAJOR PROVISIONS FOR COMMUNITY SERVICES PROGRAM

Budget Overview. The Governor's Budget includes $6.9 billion total funds ($4.2 billion General Fund) for the Department in 2017-18, which is an increase of $241 million or 3.6 percent from the current year. The Department of Developmental Services (Department or DDS) is responsible under the Lanterman Developmental Disabilities Services Act (Lanterman Act) for ensuring that approximately 300,000 persons with developmental disabilities receive the services and support they require to lead more independent and productive lives and to make choices and decisions about their lives.

California provides services and supports to individuals with developmental disabilities two ways. The vast majority of people live in their families' homes or other community settings and receive state-funded services that are coordinated by one of 21 non-profit corporations known as regional centers (RCs). In contrast, a small number of individuals live in three state-operated developmental centers (DCs) and one state-operated community facility. The number of individuals with developmental disabilities in the community served by regional centers (consumers) is expected to increase from 303,447 in the current year to 317,283 in 2017-18. The number of individuals living in state-operated residential facilities is estimated to be 490 on July 1, 2018.

On February 29, 2016, the Legislature enacted, and the Governor later signed, a package of ongoing spending proposals in AB2X 1 (Thurmond) that directly appropriates $287 million General Fund for various increases to Regional Centers (RCs) and community services providers in 2016-17 and leverages related federal funding. This item, in addition to providing an overview of the Community Services

Program budget, is intended to be an oversight item on the implementation of the Special Session investments.

An overview of the funding changes across DDS programs are included in the following table.

FUNDING SUMMARY

(Dollars in Thousands)

	2016-17		2017-18	Difference	Percent of Change
BUDGET SUMMARY					
Community Services	$6,064,913		$6,423,741	$358,828	5.9%
Developmental Centers*	529,869	*	449,796	-80,073	-15.1%
Headquarters Support	51,188		52,302	1,114	2.2%
TOTALS, ALL PROGRAMS	**$6,645,970**		**$6,925,839**	**$279,869**	**4.2%**
GENERAL FUND					
Community Services	$3,558,448		$3,838,894	$280,446	7.9%
Developmental Centers	368,523		329,985	-38,538	-10.5%
Headquarters Support	33,834		34,720	886	2.6%
TOTALS, ALL PROGRAMS	**$3,960,805**		**$4,203,599**	**$242,794**	**6.1%**

The following are major provisions in the Governor's January 10 Budget for the Community Services (or Regional Centers) Program. Major provisions for the DC budget are reviewed under Issue 12 of this agenda.

Major Provisions for the Community Services (or Regional Centers, RCs) Program.

- **Caseload and Utilization.** For 2016-17, the Community Services Program is expected to provide services and support to 303,447 individuals in the community.
  The Governor's Budget updates the 2016 enacted budget to $6.064 billion ($3.56 billion General Fund). This reflects a net decrease of $37.2 million ($74.7 million General Fund decrease) as compared to the enacted budget for regional center Operations (OPS) and Purchase of Services (POS). For 2017-18, the Governor's Budget projects the total community caseload at 317,283 consumers, reflecting an increase of 13,836 consumers over the updated 2016-17 caseload. Total funding of $6.4 billion ($3.8 billion General Fund) is proposed for services and supports for regional center consumers living in the community. This reflects a net increase of $359 million ($280 million General Fund) from updated 2016-17 figures.

- **Minimum Wage Increase.** The Governor's Budget includes a $7.5 million increase ($4.4 million General Fund increase) in POS to reflect increased expenditures based on caseload and utilization growth for the continued implementation of Assembly Bill (AB) 10, Chapter 351, Statutes of 2013. The Governor's Budget also includes $77.2 million increase ($43.6 million General Fund increase) in POS to reflect full-year costs of the state-mandated hourly minimum wage increase from $10.00 to $10.50 effective January 1, 2017, as well as the increase from $10.50 to $11.00 effective January 1, 2018 required by Senate Bill (SB) 3, Chapter 4, Statutes of 2016.

- **Special Session Rate Increases.** The Governor's Budget includes $14.3 million increase ($8.4 million General Fund increase) to reflect the full amount of funds appropriated through special session for the implementation of Assembly Bill 1, 2nd Extraordinary Session, Chapter 3, Statutes of 2016 (AB2X 1).

- **Community Placement Plan (CPP) - DC Closure.** The Governor's Budget includes a $53.1 million decrease ($55.3 million General Fund decrease) in DC Closure-specific CPP funding. This reduction represents the portion of CPP funds no longer required for start-up costs to develop resources for residents transitioning out of Sonoma, Fairview, and Porterville GTA. DDS has allocated the majority of closure-specific CPP startup funds to projects currently underway, and in 2017-18 will require a reduced amount for placement activities only. The CPP issues are discussed in more depth under Issue 6 of this agenda.

- **Best Buddies.** The Governor's Budget proposes a $1 million total and General Fund decrease in 2017-18 for Best Buddies due to the removal of the 2016-17 one-time funding.

UPDATE ON SPECIAL SESSION ACTIONS

In June 2015, the Governor convened a special legislative session to address various health and human services issues, including the provision of sufficient funding for rate increases for community service providers serving individuals with developmental disabilities as well as the consideration of legislation to increase oversight and the effective management of services provided to consumers of the RC system. As part of the special session, on February 29, 2016, the Legislature adopted, and the Governor later signed, a package of ongoing spending proposals in AB2X 1 (Thurmond) that directly appropriates $287 million General Fund for various increases to RCs and community services providers for 2016–17. (This new General Fund spending would leverage an estimated $186 million in additional related federal funds.) Most of the additional General Fund spending, about 60 percent, is for salary and/or benefit increases for community service providers' staff that devote most of their time to providing direct care to consumers. The legislation also makes changes for rates set by DHCS, for certain intermediate care facilities and skilled nursing facilities, for which a General Fund appropriation is not provided.

While the DDS-specific spending proposals are ongoing, subject to appropriation in the annual budget act in future years, most are capped at a fixed General Fund dollar amount and therefore would not vary year to year based on consumer utilization changes. Rate increases for services that are not capped, and therefore the total cost would change based on consumer utilization changes, include transportation, in– and out–of–home respite, supported living, and independent living services.

The legislation also required documentation and extensive new reporting requirements by RCs and providers to (1) provide information to DDS to determine the allocation of many of these spending increases (including through a random sample survey of providers to be completed in April 2016) and (2) ensure program accountability regarding the use of these funds. This reported data would include, for example, the number of RC Service Coordinators receiving salary and/or benefit increases and information on staff turnover. Additionally, the legislation requires DDS to submit to the Legislature, by March 2019, a rate study addressing the sustainability, quality, and transparency of community–based services for individuals with developmental disabilities. This is discussed more in greater depth under Issue 5 of this agenda.

The table below outlines the various spending proposals contained in AB2X 1 and their General Fund impacts, including whether or not the spending change is subject to a "fixed appropriation" or a capped total General Fund amount year to year. Nearly all of the spending augmentations in AB2X 1 became effective July 1, 2016, unless otherwise indicated.

Summary of Special Session Spending Augmentations in AB2X 1 (Thurmond)
(In Millions)

Enacted Spending Proposal[a]	General Fund Appropriation	Fixed Appropriation (Y or N) [b]
Community Services Staff Providing Direct Services to Consumers. Rate increases, as determined by DDS, for enhancing wages and benefits for community service provider staff who spend a minimum of 75 percent of their time providing direct services to consumers. Rate increases would only apply to services for which rates are set by DDS or through negotiations between RCs and service providers, as well as supported employment services and vouchered community services. (Employees of the Community State Staff Program are excluded.)	$169.5	Y
RC Staff Salaries and/or Benefits. Increases for RCs to provide RC staff salary and/or benefit increases as allocated by DDS. Would exclude RC unfunded retirement liabilities and RC executive staff.	29.7	Y
RC Administration. RC operations increase, as allocated by DDS, for administration, including for clients' rights advocates contracts.	1.4	Y
Provider Administration Costs. Rate increases, as allocated by DDS, for rates set by DDS or through negotiations with the RC and provider, as well as supported employment services and vouchered community–based services.	9.9	Y
5 Percent Rate Increase for Supported Living and Independent Living Services. 5 percent increase to rate in effect on June 30, 2016.	18.0	N
5 Percent Rate Increase for In– and Out–of–Home Respite Services. 5 percent increase to the rate authorized and in operation on June 30, 2016 for family–member–provided respite services and in–home respite service agency rates.	10.0	N
5 Percent Rate Increase for Transportation. 5 percent rate increase to rates for transportation services in effect on June 30, 2016.	9.0	N
Competitive Integrated Employment Program. Requires DDS to establish guidelines and oversee a program to increase paid internship opportunities for individuals with developmental disabilities that produce outcomes consistent with a consumer's Individual Program Plan, as specified, to include incentive payments for supported employment.	20.0	Y
11.1 Percent Rate Increase for Supported Employment. Provides an 11.1 percent rate increase for supported employment by restoring rates to levels in effect in 2006.	8.5[c]	N
Resources to Support Bilingual RC Staff, Training, and Education Efforts. Provides a fixed amount to implement recommendations and plans to promote equity and reduce disparities in the purchase of services that may include pay differentials supporting bilingual RC staff, cultural competency training, parent education efforts, and other activities.	11.0	Y
Rate Increases for Certain Intermediate Care Facilities (ICFs). Provides a 3.7 percent rate increase to the reimbursement rates in effect in the 2008–09 rate year for dates of service on or after August 1, 2016 for ICFs for the developmentally disabled and continuous nursing care. Implementation subject to federal approvals for related federal funding. Effective for dates of service on or after August 1, 2016.	—[d]	—[d]

Exemption From Retroactive Reductions for Distinct Part Skilled Nursing Facilities (DP/SNF). Prohibits the Department of Health Care Services from implementing or seeking retroactive reductions or reimbursement limitations for services provided by SNFs that are distinct parts of general acute care hospitals for dates of service on or after June 1, 2011 and on or before September 20, 2013.	—[d]	—[d]
Total General Fund Appropriation	**$287.0**	

[a] Spending augmentations effective July 1, 2016, unless otherwise noted.

[b] If a fixed appropriation, total rate increases provided cannot exceed total appropriation amount. Therefore, year–to–year amounts would not vary based on utilization. Amounts for spending that are not fixed will likely vary year to year; amounts for 2016–17 are estimates.

[c] Spending changes also affect the Department of Rehabilitation budget and are not included in appropriation but estimated to be about $3.5 million General Fund.

[d] Spending changes affect the Department of Health Care Services budget and are not included in appropriation but estimated to be about $12 million General Fund for ICFs and about $123 million General Fund for DP/SNFs.

DDS = Department of Developmental Services and RC = Regional Center.

DDS has recently provided the following charts displaying its implementation efforts and status for the Special Session investments.

Component (with GF Appropriation)	**Status / Comments**
1.Rate increase to enhance wages/benefits for staff who provide direct services to consumers ($169.5 million)	• DDS surveyed providers as the basis for rate increases, and provided notice to the regional centers of those increases on June 24, 2016, for new rates effective July 1, 2016. The rate increases were the same for all providers within each service category and comparable across service categories based on the surveyed providers' reported costs for employees who provide direct services. In August 2016, DDS allocated funds to the regional centers via contract. • As required by W&I Code §4691.10(4), DDS will include in its 2017-18 May Revision, a description of the implementation of the provider rate increases.
2. Increase salaries and benefits for RC staff ($29.7 million)	• In May 2016, DDS notified regional centers of their allocation amounts, which are included in their 2016-17 contracts. Allocations are based on their proportional share of total core staffing. • As required by W&I Code §4639.5 (d), DDS will include in its 2017-18 May Revision, a description of the increases, and data provided by the regional centers on caseload impact. On February 17, 2017, DDS sent surveys to regional centers to gather this data.
3. Increase funds for RC administrative costs ($1.4 million)	• As specified in AB2X 1, DDS allocated funds to the regional centers and for the clients' rights advocates contract to provide funds for administrative expenses consistent with W&I Code Section 4629.7. In May 2016, DDS notified regional centers of their allocation amounts, which are included in their 2016-17 contracts. Allocations are based on their proportional share of total core staffing. DDS increased the clients' rights advocates contract by $21,155.
4. Rate increase for provider administrative costs	• DDS surveyed providers as the basis for rate increases, and provided notice to the regional centers of those increases on June 24, 2016, for new rates effective July 1, 2016. The rate increases were the same for all providers within each service category and comparable across service categories based on the surveyed

($9.9 million)	providers' reported administrative costs. In August 2016, DDS allocated funds to the regional centers via contract.
5. 5% increase for Supported Living & Independent Living ($18 million)	• On June 24, 2016, DDS notified regional centers of this increase, in addition to the direct service/administrative cost increases, for rates effective July 1, 2016. With these increases, combined with other increases from previous years (e.g. increase for Fair Labor Standards Act regulations, statewide minimum wage, etc.) the rates for supported living are now, at minimum, almost 20% higher than in 2008.
6. 5% increase for In & Out-of-Home Respite ($10 million)	• On June 24, 2016, DDS notified regional centers of this increase, in addition to the direct service/administrative cost increases, for rates effective July 1, 2016. With these increases, combined with other increases from previous years (e.g. increase for Fair Labor Standards Act regulations, statewide minimum wage, etc.) the rates for In-Home Respite are now, on average, approximately 40% higher than in 2008.
7. 5% increase for Transportation ($9 million)	• On June 24, 2016, DDS notified regional centers of this increase, in addition to the direct service/administrative cost increases, for rates effective July 1, 2016. With these increases, combined with other increases from previous years (e.g. statewide minimum wage, etc.) the rates for Transportation are now, at minimum, approximately 11% higher than in 2008.
8. Competitive integrated employment – Internships and Incentives ($20 million)	• DDS developed and sent guidelines to regional centers on July 24, 2016, regarding implementation of the paid internship program, and on August 5, 2016, sent guidelines for the implementation of the incentive payments. DDS developed both sets of guidelines collaboratively with input from various stakeholders during two statewide meetings and other means. • As required by W&I Code §4860 (f) DDS will include in its 2017-18 May Revision the results of a provider survey regarding employment placements. As required by W&I Code §4870 (d), DDS will also include in its May Revision a description of the implementation of the paid internship program.
9. Restoration to 2006 Supported Employment Rates ($8.5 million)	• This increase, combined with the direct service/administrative cost increases, resulted in a new rate of $36.57/hr effective July 1, 2016. DDS notified regional centers of this rate on June 24, 2016. With these increases, the rates for Supported Employment are now approximately 19% higher than in 2008. Additionally, DDS has proposed TBL to update this rate in statute based on the results of the provider survey.
10. Disparities and Bilingual staff ($11 million)	• On July 26, 2016, DDS sent guidelines to regional centers regarding the submission of proposals to obtain funding to address identified areas of disparity. Subsequently in August 2016, DDS held four stakeholder meetings in Campbell, Sacramento, San Bernardino, and Los Angeles to discuss and gather information on disparity issues. The Department received, reviewed, and approved regional center proposals, and will allocate funds to the regional centers in March 2017. • Pursuant to W&I Code Section 4519.5(h)(4), Regional centers are required to report to DDS by May 31st on the status of their implementation of approved proposals. As required by AB 1606, Section 18, DDS will annually assess disparities data and will report on the annual assessment in April 2017 and annually thereafter.
11. Rate Study ($3 million)	• DDS released the RFP on February 9, 2017, and the deadline to submit proposals is April 3, 2017. • Note that $3 million GF to complete the rate study was appropriated in the Budget Act (SB 826, Ch. 23, Statutes of 2016) and is not included in the total $287 million AB2X 1 GF appropriation.
Total GF Appropriation = $287 million	

Component (with Total and GF Appropriation)	Status / Comments
1.Improve Service Coordinator Caseload Ratios ($17 million, $13 million GF)	• DDS allocated funds to the regional centers in August 2016 based on their percent of total caseload. • As required by Item 4300-101-0001, Provision 8, of the 2016 Enacted Budget, regional centers will report annually to the Department the number of staff hired with the additional funds and effectiveness of these funds in reducing average caseload ratios. Additionally, regional centers are required to provide justification for hiring program coordinators who do not serve consumers receiving services under the Home and Community Based Services Waiver. On February 17, 2017, DDS sent surveys to regional centers to gather this data. As required by W&I Code Section 4639.5 (d), DDS will include in its 2017-18 May Revision, information on caseload ratios.
2.Compliance with HCBS Regulations ($15 million, $11 million GF)	• DDS is finalizing its review of concept proposals and estimates that it will notify regional centers in March 2017 regarding those approved for funding. Regional centers will then contract with selected providers. • As required by Item 4300-101-0001, Provision 10, of the 2016 Enacted Budget, regional centers shall report annually to the Department the number of providers receiving these funds.

LAO COMMENTS AND RECOMMENDATION

Implementation of Rate Increases. The LAO notes implementation challenges of the 2016 rate increases, remarking that while targeting increases to direct care staff made sense, the rollout has been complicated. “When weighing its options last year during the special legislative session, it made sense that the Legislature wanted service provider rate increases to go to staff providing direct care for consumers (as opposed to administrative staff). Targeting $169.5 million in funding to staff spending at least 75 percent of their time to provide direct consumer care reflected the state’s goals for achieving positive consumer outcomes and focusing efforts to improve and honor consumer choice. The rate increase affected service providers that have rates determined by DDS or through negotiations with the vendoring RC, but did not affect rates set by DHCS or the Department of Social Services.

The targeted increase requires a significant amount of administrative work on the part of DDS, RCs, and service providers. Statute required DDS to complete a provider survey (in coordination with RCs) with a random sample of service providers to determine how to allocate the fixed amount of the appropriation. It also requires DDS to conduct a survey by October 1, 2017 to find out how providers used the rate increase (including number of employees affected, the percentage of time that these employees spend on direct care, administrative costs, and any other information requested by DDS). Every provider who received the rate increase must complete the survey by October 1 or risk losing funding. DDS is not requiring new providers that entered the system after June 30, 2016 to complete the survey. DDS is also required to report on implementation of the rate increases in its 2017-18 May Revision fiscal estimate. Based on discussions with DDS and provider advocates, it appears that completion of the mandated vendor survey will be administratively burdensome. DDS noted that it was not easy getting providers to respond to the initial survey that they used to determine how to allocate the funding. It also appears that many providers are unaware of the reporting requirement and that they will lose the increased funding if they do not respond. It may also be difficult for some of the smaller vendors to collect the required information. DDS intends to begin outreach efforts within the next month."

The LAO recommends statutory clean-up to ease reporting and enforcement. The extent of the administrative burdens to allocate the funding for the 2016 rate increases was likely not known to the Legislature when the special session legislation including the rate increases was enacted. The LAO notes that the Legislature's objective of having the rate increases not going to support largely administrative costs could be met to some degree on the natural given that current law places a 15 percent administrative cap for providers with rates set through negotiations with the RCs. (This cap affects providers that account for roughly half of the relevant spending.)

To smooth reporting and enforcement related to the 2016 rate increases, the Legislature might consider amending the provisions of the special session legislation. Specifically, the Legislature could consider relaxing the rule that providers forfeit the increase if they fail to report how they implemented the increase. It could also consider removing the survey reporting requirement altogether, or extending its October 1, 2017 deadline. One benefit of this approach would be to free up DDS, RC, and service provider administrative resources that could otherwise be spent on activities that work toward 2019 compliance with the HCBS waiver regulations.

Finally, it may be worth using this experience regarding the administrative efforts required to implement, report on, and enforce a targeted rate increase to inform future, more administratively streamlined rate increases (at least until rate reform is addressed at a more fundamental level). The administrative costs, in terms of DDS, RC, and provider time to implement a complex increase (no matter how well intentioned), may outweigh the policy benefit of targeting the rate increases. For example, a simple percentage increase may be more efficient, especially given the caps on administrative costs already in place for many service provider categories.

STAFF COMMENT

The LAO raises some important concerns regarding reporting that should be carefully considered by the Subcommittee. The Subcommittee may wish to ask the following question:

- Regarding the service provider survey (due in Oct.) about how they implemented last year's rate increase (for staff spending at least 75% of their time on direct care), what are the biggest challenges are in term of completing this survey and why? Similarly, can DDS provide a sense of whether or not it thinks the increase was implemented properly by providers.

Staff suggests that the Subcommittee ask the LAO to work with DDS to draft an option on placeholder trailer bill language that would accomplish the goal of smoothing reporting and enforcement of the Special Session investments for the Subcommittee to consider at a later date. This is addressed in the recommendation below.

Staff Recommendation:

The May Revision will adjust estimates for the Community Services Program, so staff recommends that the Subcommittee hold these issues open until action can be taken at that time.

The Special Session actions were reviewed as part of an oversight effort and no action is needed at this time, though the Subcommittee may wish to be explicit in any request to the LAO, DDS, and DOF on responding to issues in implementation seen with the Special Session actions. For example, the Subcommittee could:

- Direct LAO to work with DDS (and DOF), and for DDS to in turn collaborate with the DD stakeholder community, to pinpoint changes in reporting that would smooth reporting and enforcement given other near-term challenges being faced by providers (e.g. compliance with the Home and Community-Based Services waiver requirements discussed later in this agenda).

- Ask LAO and DDS to report back to the Subcommittee (perhaps via staff) prior to the May Revision with recommended changes and a draft placeholder trailer bill option that makes improvements in the Special Session investment implementation.

ISSUE 2: OVERVIEW AND PERSPECTIVE FROM THE LAO

PANEL

- Sonja Petek, Legislative Analyst's Office
  - Please provide an overview of the recent report on the DDS budget provided by the LAO.

PRESENTATION

The LAO will provide a handout to the Subcommittee in the course of the hearing. The LAO recently released its 2017-18 "Analysis of the Developmental Services Budget," available at the www.lao.ca.gov website, many portions of which are referenced in this agenda under the various items for Subcommittee review.

The LAO has been asked to provide a high-level overview of its reactions and recommendations to the DDS budget as part of this Issue for the education and benefit of the Subcommittee.

LAO FEEDBACK

While many portions of the LAO's recent report are included in this agenda write-up under specific program or issue areas, the following did not have a natural place and is thus included here for the benefit of the Subcommittee's review.

New Research and Fiscal Unit Presents an Opportunity for Strategic Decision-Making

First Year Focused on Hiring, Restructuring. The 2016-17 budget included $1.2 million ($930,000 General Fund) and seven positions for DDS to create a fiscal and program research unit. In its budget change proposal last year, DDS noted that it receives numerous requests for data and information, but that unlike other departments of its size, had no staff dedicated to research and analysis to respond to these requests. Since establishing the unit, DDS has to date hired a PhD-level unit manager and filled two other positions. DDS reports that it has consolidated some of its administration, data extraction, and audit functions within the new unit, and that it intends the new unit to respond to requests and respond more quickly, archive requests and responses, inform decisions related to the annual January and May budget estimates, fulfill statutory reporting requirements, and examine historical costs.

New Unit Can Also Play an Important Role in Policy Decisions and DDS Oversight of RCs. As service delivery continues to move toward consumer choice and independence, we believe this unit could play a critical role, helping the department and the Legislature make data-driven policy and budget decisions. In addition, RCs are currently required to report many types of information to DDS about their POS and operations budgets among other things. The new research unit could use this information to conduct analyses of RC and service provider performance and evaluations of consumer outcomes (including labor market outcomes and consumer satisfaction), in an effort to strengthen DDS oversight of RCs.

LAO Recommendation—Legislature Could Set More Specific Goals for the Research Unit. To help ensure the research unit does not become overly focused on, and get bogged down in responding to requests for information—and without being overly prescriptive—the Legislature could weigh in on the overall goals and projects for the new fiscal and program research unit, particularly as they concern the person-centered approach, compliance with federal rules, and rate reform. Such goals and projects could include:

- ***Assessment of Gaps in Service and Provider Capacity.*** We noted earlier in the discussion of CPP funding that the proposed trailer bill did not include information about what community resources are hardest to find for community-based consumers. Whether or not the Legislature approves the trailer bill, it could consider requiring DDS to conduct an assessment of these service gaps. Particularly if the Legislature considers providing ongoing funding for community resource development (separate from CPP funding), this assessment would enable to the Legislature and department to make strategic decisions about funding and projects, respectively.

- ***Identify the Causes of Disparities in POS Funding.*** RCs and DDS currently provide data on disparities in POS authorization and access in response to a statutory requirement. The data have identified significant disparities among racial/ethnic groups in terms of access to, and amount of, POS spending. Last year, the Legislature provided $11 million in funding to try to reduce these disparities, which is being allocated to RCs based on proposals the RCs submitted to DDS. A study to better understand the root causes of POS disparities could inform future decisions about steps RCs can take to reduce disparities and about which future RC proposals to fund. It could also better position the RCs to prevent future disparities.

- ***Identify Alternatives to RC Core Staffing Formula.*** The rate study that will be completed by 2019 is one piece of finance reform in the developmental services system. Another significant component is the way in which RCs are reimbursed for their operations costs. Currently, estimated RC operations costs are based on a core staffing formula, which is outdated in terms of both staff salaries and position types. The fiscal and program research unit could conduct an analysis of current staffing and salary challenges, research alternative methods for estimating staffing, and provide recommendations to the Legislature about how to reform the current budgeting methodology.

Staff Recommendation:

The Subcommittee may wish to consider an action at the May Revision to reformulate the mission of the new Research Unit at DDS Headquarters given the thoughts and ideas that have been raised by the LAO. Otherwise, no action is required at this time.

ISSUE 3: ADVOCACY REQUESTS

PANEL

- Timothy Hornbecker, Chair, The Lanterman Coalition
- Amy Westling, Associate Director, Association of Regional Center Agencies
- Tiffany Whiten, Long Term Care Director, California State Council of Service Employees International Union (SEIU)
- Nancy Bargmann, Director, and John Doyle, Chief Deputy Director, Department of Developmental Services
- Teresa Calvert, Department of Finance
- Sonja Petek, Legislative Analyst's Office
- Public Comment

ADVOCACY PROPOSALS

Due to the crossover nature of many of the advocacy proposals, this item is intended to provide a forum for the presentation of the highest priority issues for the advocacy community. Advocates may still weigh in on individual issues, but this panel affords them an opportunity make connections in their narrative that cross over complicated, interrelated issues. Their proposals are presented in summary below.

From the Lanterman Coalition, representing a host of DD advocacy organizations and provider groups. The Coalition asks for the following:

1. Prevent the loss of federal funds that would result from noncompliance with the new Home and Community Based Services rules. The DDS community service system today depends on $2 billion in federal Medicaid funds annually. As all of California's Medicaid funding is subject to change, given the new proposals at the federal level for block granting, per-capita allotments, or otherwise reducing available federal funds for health care financing, we must urge state budget deliberations regarding Medi-Cal to include some recognition of the continuing need for sustaining the services in the DDS system in the future. As the Lanterman Act is California's unique program celebrated for stabilizing community living for more than 300,000 residents with developmental disabilities, preserving the use of federal funds is a direct offset to state general funds which would otherwise be needed for the same service supports if it disappears. Any loss in federal funds will not only hurt the consumers involved, but it will also preclude this state's ability to comply with federal Home and Community Based Services (HCBS) regulations by the present deadline of 2019 or ever.

2. Restructure state and community-based agency responsibilities by: (a) expeditiously completing the closure of the developmental centers, and thus also recapturing federal funding currently suspended due to the inadequacy of the DCs; (b) providing timely and sufficient funds to assure community services are available to consumers

moving out of the DCs; and (c) retaining state funds and assets currently devoted to the DCs and utilizing them for the community-based system. The Lanterman Coalition continues to urge closure of the remaining DCs expeditiously, while keeping each individual's health and safety central. These centers have lost federal funding, and the state General Fund has been forced to backfill these lost dollars. When transferred to the community, residents of DCs, by definition, will be eligible for federal funding, restoring federal participation in their care and support. The Governor's Budget anticipates a DC population of 760 residents at the beginning of the year, declining by 490 by the need of the 2017-18 fiscal year. This translates into a cost of nearly $600,000 per person. We support the transfer of the consumers into the community and the provision of whatever dollars are necessary to provide appropriate support in the community, significantly less than in the DCs. We also support transfer of the entire DC budget allocation to the community to support these residents, address unmet community needs, and help cover the rising costs of exiting community services and supports.

3. Guarantee funding required to comply with federal, state and local mandates. Community service providers have no choice but to comply with state and local minimum wage increases and all other government mandates. Yet while the state covers some of these costs through often cumbersome and expensive procedures, others go unfunded. We ask legislators to adopt a simple mechanism to make providers whole.

4. Save community-based services that otherwise would close and would cost the state more to replace. Rate freezes have locked into place the rates of programs across the board. There have been only sporadic and usually highly-targeted increases, most often for wage/benefit increases and not for other unavoidable operating costs. Some programs are locked into very old rates and have seen mandate-driven and location-specific costs go up with no way to meet them. While all programs are hard-pressed, some are far closer to the brink of failure than others. When programs fail, the lives of people they serve are severely disrupted. When they are transferred to other existing programs, or when new programs are created for them, the cost of service is often significantly higher to the state than if the original programs had been stabilized. We support providing DDS with authority to permit programs on the brink of collapse to apply for relief and to negotiate rate increases sufficient to save the programs, rates no higher than the cost of replacement programs, including any increased transportation costs. Such authority would be more appropriate, clearer and more expeditious than the current health and safety exemption, and would provide the state with a cost avoidance strategy.

5. Assure that the state selects a consultant for the 2019 rate methodology study who will incorporate the actual costs for delivering quality community services. AB2X-1 requires DDS to create a new rate system to pay vendors serving people with developmental disabilities. DDS is hiring consultants to create the new rate structure. We ask legislators to work with the disability community and DDS, ensuring: (1) Transparency in the process and a continued commitment to keeping the community closely apprised on the progress of this work, including rate operating

principles and procedures, not just through updates to the RFP on Cal e-Procure, but also via the DDS web site; (2) Extensive community input opportunities with a dedicated committee of vendor representatives, consumer groups, family groups, advocacy groups, regional centers, worker representative organizations, and DDS officials to oversee the consultants' work; and (3) That principles for the new rate structure are developed with the disability community. We need to be actively involved in developing operating principles for the new rate structure, and ask the Legislature to remain involved in the integration of these principles into the new rate structure.

From the Association of Regional Center Agencies. The Association of Regional Center Agencies (ARCA) represents the nonprofit regional centers that serve over 300,000 Californian children and adults with developmental disabilities. ARCA joined in support of the above-noted Lanterman Coalition priorities and has provided separate advocacy on the rates issues. Rates are discussed at more length in Issue 5 of this agenda.

From the Service Employees International Union. SEIU California is requesting an appropriation of $34 million General Fund for 2017-2018 for purposes of increasing the number of Service Coordinators at Regional Centers (RCs) in order to come into compliance with caseload ratios established by Centers for Medicare and Medicaid Services (CMS). Caseload ratios were established in 1997 for consumers on the Home and Community Base Services (HCBS) Waiver. Since 2004, RCs have been required to maintain the following coordinator-to-consumer ratios, per Welfare and Institution Code (WIC) 4640.6:

- 1:62 for consumers on the Home and Community-Based Services (HCBS) Waiver.
- 1:62 for consumers under age 3.
- 1:62 for consumers who moved from a developmental center (DC) to the community and lived in the community for more than 12 months.
- 1:45 for consumers who move from a DC to the community and had lived in the community for less than 12 months.
- 1:66 for consumers who are not on the HCBS Waiver, not under age 3, and have not moved from a DC to the community.

Currently, RCs are not able to maintain the required caseload ratio due to many factors. In 1991, there was a salary freeze and caseload levels increased, as RCs were unable to hire sufficient staff. Since then, the freeze has been lifted but there have subsequent cuts and recessions that have added to the difficulty in hiring and maintaining staff to meet federal compliance. In addition, the core staffing formula has not been update since it was established in 1991. RCs are funded at a much lower rate than what they actually pay their Service Coordinators. In order for RCs to be competitive within the workforce they will often hire fewer staff in order to compensate their employees appropriately.

In 2015, the Association of Regional Center Agencies (ARCA) estimated approximately 660 new Service Coordinators were necessary to meet federal compliance. Last year $17 million was appropriated for roughly 200 positions or roughly one third of the necessary positions. SEIU estimates that $34 million would provide the additional 400 positions needed according to this calculation to come into federal compliance.

STAFF COMMENT

Staff recommends that the Subcommittee consider asking the following questions of the DDS and Administration in response to these advocacy proposals:

1. What is the Administration's view of the funding retention proposals from the Lanterman Coalition and ARCA? This is the concept around retaining DC funding for Community Services once the DCs close.

2. How can the rates contract/vendor process be improved to respond to the issues raised by the advocates?

3. What is at risk if the coordinator to consumer ratios don't improve beyond what is currently funded/expected?

Staff Recommendation:

No action is recommended at this time, except that the Subcommittee take these requests and feedback under advisement and urge deeper collaboration and consideration of them by the DDS and DOF in the coming weeks leading to the May Revision.

ISSUE 4: HOME AND COMMUNITY BASED SERVICES REGULATIONS COMPLIANCE AND GOVERNOR'S TBL REQUEST #633

PANEL

- Nancy Bargmann, Director, Department of Developmental Services
  - Please provide a review of the HCBS Compliance process and plan for DDS.
  - Please provide feedback on the perspectives and concerns being raised by the LAO and advocates.
- Teresa Calvert, Department of Finance
- Sonja Petek, Legislative Analyst's Office
- Public Comment

BACKGROUND

In early 2014, the federal Centers for Medicare and Medicaid Services (CMS) published final regulations affecting 1915(c) Waiver programs, 1915(i) State Plan programs, and 1915(k) Community First Choice State Plans for Home and Community-Based Services (HCBS) provided through federal Medicaid. The regulations allow individuals to receive HCBS in settings that are integrated in and support full access to the greater community, including opportunities to seek employment and work in competitive and integrated settings, engage in community life, control personal resources, and receive services in the community to the same degree as individuals who do not receive HCBS. States are required to develop a transition plan identifying the necessary steps to bring applicable programs and services into compliance with the HCBS regulations by March 2019.

On November 23, 2016, the Department of Health Care Services submitted California's revised transition plan (also called a State Transition Plan, or STP) to CMS. The transition plan included an assessment of how the State's laws and/or regulations currently align with and differ from federal HCBS regulations.

TRAILER BILL PROPOSAL

DDS is proposing trailer bill language to issue policy directives in advance of emergency regulations in order to align State and federal HCBS regulations prior to the March 2019 deadline. Compliance with the HCBS regulations by March 2019 is required for continued receipt of federal funding (approximately $1.8 billion annually) for services provided to eligible regional center consumers. The expedited ability for the Department to provide guidance to regional centers and service providers is necessary to implement changes that align with HCBS regulations. DDS states that the proposed statutory change is consistent with the commitment the State made to CMS in the revised transition plan submitted November 23, 2016.

LAO COMMENTS AND RECOMMENDATION

The following is from the aforementioned recent LAO Report on the DDS budget:

Major Federal HCBS Funding at Risk. Federal reimbursements for developmental services currently provide about 40 percent of California's total DDS budget—$2.7 billion in 2017-18. Federal reimbursements from the Medicaid program ($2.4 billion) provide the bulk of this funding and of that amount, about $2 billion (or 30 percent of the entire DDS budget) is provided through HCBS waivers. Nearly 60 percent of consumers do not receive HCBS waiver funding, yet all service providers must be in compliance with the final rule because they may serve someone who does receive waiver HCBS funding. According to the STP the state submitted to CMS this past September (which CMS has not yet approved), there will be a three-part process to assess whether service providers comply with the final rule. First, DDS will work with DHCS to send self-surveys to all service providers to gauge how well the providers' current operations align with the final rule. Second, DDS will conduct interviews with consumers to gather their opinions about the services they receive. Lastly, DDS will conduct on-site assessments of a sample of service providers. DDS will give the assessment results to providers so they can ameliorate any problems.

It remains unclear how stringently CMS will enforce the deadline and compliance requirements and what the consequences will be if full compliance is not reached by March 2019. For anything less than full compliance, the state risks losing some or all of its federal HCBS waiver funding.

State Funding to Assist HCBS Compliance Efforts Among Service Providers Is Another Funding Pressure. In the 2016-17 Budget Act, the Legislature appropriated $15 million in ongoing funding for DDS to allocate to service providers who demonstrated they needed assistance to comply with the HCBS final rule. The legislation requires RCs to report annually on the number of providers receiving funding for these compliance efforts. According to DDS, last October, more than 900 service providers (less than 5 percent of the estimated number of providers) submitted proposals for more than $130 million in funding requests. The variety of requests appear to highlight a lack of understanding about the final rule, which could be a result of the limited guidance provided thus far by the state. The funding pressure on the system stems both from the risk of losing federal waiver funding and from the unknown cost to the state to provide financial assistance to service providers to bring them into compliance.

Required Improvements to Service Coordinator-to-Consumer Caseload Ratios Create Funding Pressures. Current state law, as well as the terms of the current HCBS waiver, require RCs to have specified average service coordinator-to-consumer ratios depending on certain consumer characteristics. For example, federal HCBS rules require RCs to maintain an average service coordinator-to-consumer ratio of 1-to-62 for consumers receiving services through the HCBS waiver. State law further requires RCs to maintain an average ratio of 1-to-45 for consumers who have moved from a DC within the previous 12 months, 1-to-62 for consumers age three and younger, and 1-to-66 for all other consumers. The RCs have had longstanding challenges with maintaining these required caseload ratios, citing significant funding issues that may relate to the department's overall methodology for funding RC operations. The 2016-17 budget included $17 million (all funds) to support an estimated 200 additional RC service coordinator positions with the goal of improving RC coordinator-to-consumer caseload ratios. In addition, statute requires RCs to report annually to DDS on the number of staff hired with these additional funds as well as on RC's effectiveness in reducing average caseload ratios. DDS indicated that RCs will provide information about hiring and an update on coordinator-to-consumer ratios in early March; DDS will provide an overall update in April or May.

Funding pressures stem from two main sources with regards to coordinator-to-consumer caseloads. First, there is an HCBS compliance issue and the risk of losing some amount of federal funding. Second, there is the cost associated with hiring additional coordinators, which, as noted above, special session legislation attempted to address last year. Until DDS reports back on this information, it is unknown what more may be required to improve caseload ratios.

STAFF COMMENT

The Subcommittee may wish to pose the following questions to DDS:

- What was the nature of the funding requests made by service providers for the $15 million assistance funds?
- What did providers propose doing with the funding (and how would it help them get into compliance)?
- What compliance issues did they identify? How serious are these issues? How many providers does DDS think are affected by these types of issues?
- How will DDS revamp its outreach and education efforts based on what they learned?
- Based on what they know so far, can DDS provide any idea of what it would take (in terms of funding and time) to bring all providers into compliance?

Staff Recommendation:

Staff recommends holding this issue open, along with the trailer bill proposal. Staff additionally recommends that the Subcommittee consider challenging the Administration to respond to issues of concern raised thus far with a "Plan of Action for HCBS Compliance" by the May Revision. This could include reflections on the issues raised by the LAO and other stakeholders, be informed by the applications for the assistance funding, and map out how compliance with HCBS will be achieved to protect federal funding before the March 2019 deadline.

ISSUE 5: REGIONAL CENTER RATES AND PENDING STUDY

PANEL

- John Doyle, Chief Deputy Director, Department of Developmental Services
  - Please provide an update on the Rates Study RFP and the thinking that went into its expectations.
  - Please provide feedback on the LAO perspectives raised in reaction.
- Teresa Calvert, Department of Finance
- Sonja Petek, Legislative Analyst's Office
- Public Comment

BACKGROUND

Provider rate-setting methodologies vary significantly depending on the type of service and provider, and have frequently been subject to incremental changes, making the overall DDS rate-setting process highly complex. The vast majority of POS rates are set by DDS or negotiated between the provider and RC. Some rates, however, are established by DHCS through the Medi-Cal program, set at what is charged to the general public and referred to as "usual and customary" rates, or set using other methodologies.

For rates negotiated between RCs and vendors, budget solutions taken by the Legislature during the recent recession froze rates and established a median rate process for new vendors (RCs assign new vendors the lower of the RC median rate or the statewide median rate for that service). Legislation passed in 2011 recalculated the medians, which meant that most median rates were lowered. These policies remain in effect. One consequence has been that new vendors in high-cost areas are often assigned the statewide median rate (which can be a disincentive to enter the market). In addition, it means there are large inequities in the rates paid to vendors providing the same service that entered the system before and after the rate freeze.

Similarly, the current rate-setting processes have been complicated by policy changes. For example, in response to minimum wage increases, the state has increased rates for providers with minimum-wage employees, but has not accounted for the resulting wage compression. As another example, the current mode for residential facilities is to have four residents (rather than six), but for a long time (up until last year), rates were unable to account for this shift in service delivery.

PENDING RATES STUDY

DDS received $3 million last year as part of the Special Session legislation for a contractor to conduct a service provider rate study and provide recommendations about rate setting. The rate study and recommendations to address some of these problems are due to the Legislature by March 1, 2019. Statute stipulates that the study should provide an assessment of the current methods for setting rates, including whether they provide an adequate supply of vendors; a comparison of the fiscal effects of alternative rate-setting methods; and how vendor rates relate to consumer outcomes. It also requires an evaluation of the current number and types of service codes and recommendations for possible restructuring of service codes. The request for proposal (RFP) for the rate study was just released on February 9, 2017.

The contractor awarded the rate study project is required to "provide DDS with a documented rate maintenance process, and the multiyear fiscal impact." It is assumed that "rate maintenance" refers to the process of making rate adjustments over time. (For example, in other areas of government, some benefits or rates for services are automatically adjusted based on changes in the Consumer Price Index.) It is not stated explicitly whether the rate maintenance activity in the RFP includes consideration of how the rate-setting process should account for, and adapt to, changing economic conditions and policy changes that are outside of DDS's control. Much of the system's current complexity is due to these factors.

LAO COMMENTS AND RECOMMENDATION

LAO Recommendation—Inform DDS of Legislative Preference for Including Consideration of Economic and Policy Changes in the Rate Maintenance Process. The LAO recommends the Legislature inform DDS of its preference to have the role of economic and policy changes considered within the rate maintenance activity identified in the RFP. Rate maintenance is currently not defined in the RFP. The Legislature could request that DDS work with prospective bidders about its meaning. For example, rate maintenance could include:

- Options for how the Legislature and DDS could reduce costs in recessionary times, while minimizing adverse impacts on consumer outcomes. This could include recommendations for making targeted reductions rather than across-the-board cuts or rate freezes.
- Options for how the Legislature could either restore funding or return to a regular rate maintenance schedule after cost-savings measures have been taken.
- Options for how the Legislature, DDS, and RCs could make ongoing rate adjustments based on regional market conditions, including how the supply of services by providers meets the demand for services by consumers.
- Options for how the Legislature and DDS could implement rate changes associated with minimum wage increases (and other labor laws), including how to measure the number of affected vendors and employees, as well as how to address wage compression.
- Options for how the Legislature and DDS could handle policy changes, such as changes in authorized modes of service delivery, that have a direct impact on rates, including recommendations for incorporating flexibility in the rate structure.

The LAO acknowledges that DDS already posted its RFP and that prospective bidders will be submitting their proposals by early April. In the interim, DDS will be answering questions from, and providing further guidance to, prospective bidders. In light of these timing constraints, we recommend that, during budget hearings prior to early April, the Legislature make the department aware of its preference to include economic and policy considerations in the rate maintenance activity and see whether DDS concurs that these factors should be considered. By making DDS aware of its preferences for what the rate study should encompass, the Legislature would help inform the guidance provided to prospective bidders by DDS during the RFP process and inform DDS's selection process for the winning bid.

STAFF COMMENT

The LAO raises a healthy and timely set of questions for the Subcommittee to consider on this issue, upon which critical access and quality of services to consumers of the system in the future will rely. Staff believes that many of these ideas have merit and warrant a more thorough conversation, however the moment to influence the rates study is upon the Subcommittee in this hearing. Therefore, staff forwards the following recommendation below.

Staff Recommendation:

Staff recommends that the Subcommittee articulate in the course of the hearing the importance of defining "rate maintenance", using as a starting place the options that the LAO has suggested, allowing for rate adaptability, but not rate suppression, given economic and policy changes yet to be seen or formulated.

ISSUE 6: CPP FUNDING, WITH GOVERNOR'S TBL REQUEST #630 AND BUDGET CHANGE PROPOSAL (BCP) #1 ON INCREASED HOUSING DEVELOPMENT WITHIN THE COMMUNITY PLACEMENT PLAN

PANEL

- Nancy Bargmann, Director, Department of Developmental Services
  - Please present on the Administration's proposals related to CPP funding.
  - Please provide feedback on other perspectives raised in reaction to the Governor's proposals.
- Teresa Calvert, Department of Finance
- Sonja Petek, Legislative Analyst's Office
- Public Comment

BACKGROUND

In addition to $68 million in ongoing base-level funding, the Governor's budget requests about $26 million ($19 million General Fund) in one-time resources for the Community Placement Plan (CPP). By comparison, the request in 2016-17 for supplementary one-time funding for CPP was for $79 million ($69 million General Fund).

DDS has statutory responsibility to provide individuals with developmental disabilities the least restrictive setting appropriate for their living needs. Welfare & Institutions Code Section 4418.25 requires the Department to establish policies and procedures for the development of an annual CPP by regional centers. The CPP is designed to enhance the capacity of the community service delivery system and to reduce the reliance on the use of Developmental Centers (DCs), Institutions for Mental Disease, out-of-state placements and other restrictive living environments by providing funding to the regional centers for the development of a variety of resources. These resources include residential development, initial placement costs, transportation, day program services, and mental health and crisis services.

The CPP provides dedicated funding for comprehensive assessments of DC residents, for identified costs of moving individuals from DCs to the community, and for deflection of individuals from DC admission. The plans include budget requests for regional center operations, assessments, resource development, and ongoing placement costs.

Since 2012, there has been a statutory moratorium on DC admissions except in the case of individuals admitted to restore competency, determined to be incompetent to stand trial, or who are in acute psychological or behavioral crisis. The remaining DCs—Sonoma, Fairview, and the general treatment area at Porterville - are in the process of implementing closure plans.

GOVERNOR'S PROPOSALS

1. **Budget Change Proposal (BCP).** The Governor's Budget requests $597,000 ($554,000 General Fund) for 4.0 permanent positions for development and oversight of permanent community housing for DD clients transitioning from the DCs, specifically Sonoma, Fairview, and Porterville General Treatment Area, and Institutions for Mental Disease (IMDs), or who are at risk of moving to more restrictive settings. DDS states that this will provide the infrastructure necessary to increase the State's program and fiscal oversight of CPP, support the Department's expansion of the Buy-It-Once housing model through CPP, and advance the DS Task Force's recommendations for the development of specialized residential resources in the community. With current workload demands, DDS states that this alternative provides the most effective use of state resources to manage the aggressive housing development needs to meet the developmental center closure deadlines.

2. **Trailer Bill Proposal.** The Administration seeks trailer bill language that would broaden the use of CPP funding, allowing DDS and the Regional Centers to develop resources for consumers who already live in the community. DDS states that as the DCs continue to downsize and close, and individuals return to the community from other institutional and out-of-state placements, the need to develop new specialized resources for these populations will decline. However, as these institutional and out-of-state service options become unavailable, there will be an increasing demand for community-based services and supports to meet the needs of consumers already in the community, including those with similarly complex and challenging needs to those in institutional or out-of-state placements. DDS states that the proposed language will authorize the use of CPP funds to continue to develop and fund resources in the community for individuals transitioning from institutional settings or are already living in the community.

LAO COMMENTS AND RECOMMENDATIONS

The following is from the aforementioned recent LAO Report on the DDS budget:

What Is CPP Funding? The state allocates CPP funding to develop community resources (residential and nonresidential) for consumers transitioning from DCs to the community. Among its uses, the funding is used by RCs for the initial costs associated with placing DC residents in the community and for providing the services and supports that would prevent placing someone in an institutional setting. In recent years, CPP funding has been used to develop residential resources for consumers transitioning from DCs, including two new residential models - Enhanced Behavioral Support Homes and Adult Residential Facilities for Persons with Special Health Care Needs - and nonresidential resources, such as day programs and dental services.

What Would the CPP-Related Trailer Bill Do? Whereas current state law earmarks CPP funding to serve the needs of consumers moving from DCs, the proposed trailer bill would allow DDS and RCs to use CPP funding to develop resources for consumers who already live in the community. CPP funding is intended to increase resource capacity in the community to serve the needs of former DC residents, as well as to fund these consumers' transitions into the community. Developing resources for already community-based residents was not the intended purpose of CPP funding. Broadening the use of CPP funding would result in less available funding for those moving from DCs. This trailer bill proposal was not submitted to the Legislature in conjunction with an assessment of the unmet need DDS is trying to address by broadening the use of CPP funding or details of how the broadened use of CPP funding would be spent. In addition, it does not include an estimate of how much CPP funding would be shifted to these activities.

The Legislature May Wish to Consider Community Resource Development Needs on Their Own Merit. Based on high-level discussions with DDS, we agree there may be a need for increased resource capacity for consumers living in the community. For example, there are many more consumers with autism than in the past and consumers are living longer and facing health issues associated with older age (for example, nearly all individuals with down syndrome will develop Alzheimer's Disease or dementia). In this regard, DDS indicated that resource capacity is needed to adapt to the changing needs of consumers to ensure that there are sufficient providers for the particular types of services being demanded.

However, the LAO believes the issue of community service funding requirements should be addressed apart from CPP funding decisions, given that CPP funding was intentionally designed by the Legislature to serve those moving from DCs. Even in the event DDS no longer needs all of the CPP funding for DC residents because most projects are already underway, the Legislature may wish to weigh in on whether that funding should revert to the General Fund or remain with DDS for other purposes. When assessing the issue of community service funding requirements on their own merit, the Legislature could also evaluate alternative funding mechanisms for developing community resources.

The Legislature could consider requiring DDS to conduct an assessment of where community services currently fall short before requesting additional funding to address these gaps in service coverage.

STAFF COMMENT

Staff recommends that the Subcommittee ask about the details of how the broadened use of CPP funding would be spent in the course of the hearing.

Staff Recommendation:

No action is needed at this time, however staff recommends that DDS be directed to follow up with additional information on how the CPP broadening proposal would work and what it portends for meeting services gaps in the community.

The BCP and trailer bill will continue to be reviewed by Subcommittee staff and can be acted on, along with any further changes to CPP, at the May Revision hearings.

ISSUE 7: GOVERNOR'S TBL REQUEST #631 ON AGE 18-22 PAID INTERNSHIPS

PANEL

- Nancy Bargmann, Director, Department of Developmental Services
  - Please present on the DDS trailer bill proposal.
- Teresa Calvert, Department of Finance
- Sonja Petek, Legislative Analyst's Office
- Public Comment

BACKGROUND

Welfare & Institutions Code section 4648.55(a) prohibits regional centers from purchasing a number of services including those related to employment, for a consumer 18 to 22 years of age, if the consumer is eligible for special education and has not received a diploma or certificate of completion, unless the individual program plan (IPP) planning team determines the consumer's needs cannot be met by the educational system or an exemption is granted.

AB2X 1, (Chapter 3, Statutes of 2016), added section 4870 to the Welfare and Institutions Code. This section states, "To encourage competitive integrated employment opportunities statewide for individuals with developmental disabilities, the Department shall establish guidelines and oversee a program…to produce outcomes consistent with the individual program plan." As such, the Department established a paid internship program administered by community service providers. The paid internships allow for payments of up to $10,400 per year for each individual placed in an internship. Additionally, the placement must be made into competitive, integrated work environments that develop skills that will facilitate future paid employment opportunities.

TRAILER BILL PROPOSAL

The proposed trailer bill language makes amendments to code to exempt consumers 18 to 22 years of age from the provisions of Welfare and Institutions Code section 4648.55(a) if the consumer is still receiving educational services and participating in a paid internship pursuant to WIC section 4870(a). DDS states that these amendments are necessary to allow individuals who, pursuant to their IPP, express a desire to and could benefit from a paid internship, thereby increasing their employment skills and independence. In essence, the language changes would allow individuals ages 18 to 22 to remain in school or leave the educational system prior to age 22, for the purpose of gaining experience in a competitive integrated job placement.

The proposed language will allow regional center consumers that receive educational services to receive regional center funded services that facilitate participation in a paid internship. By allowing regional centers to purchase employment services, an individual could remain in school and participate in a paid internship, thereby maximizing the benefits of both the educational system and experience in a competitive integrated job. Increasing competitive integrated employment outcomes for individuals with developmental disabilities is consistent with the intent of the Lanterman Developmental Disabilities Services Act, California's Employment First statute passed in 2014, and the recently published employment blueprint developed by the Department of Developmental Services, Department of Rehabilitation and the Department of Education.

Staff Recommendation:

No action is needed at this time. The trailer bill will continue to be reviewed by Subcommittee staff and can be acted on at the May Revision hearings.

ISSUE 8: GOVERNOR'S TBL REQUEST #632 ON DEVELOPMENTAL SERVICE PROVIDER RATES

PANEL

- John Doyle, Chief Deputy Director, Department of Developmental Services
  - Please present on the DDS trailer bill proposal.
- Teresa Calvert, Department of Finance
- Sonja Petek, Legislative Analyst's Office
- Public Comment

BACKGROUND

The rate for supported employment services is established in Welfare and Institutions Code (WIC) Section 4680(a) and (b). Currently, WIC indicates the rate for this service is $34.24 per hour. Additionally, the maximum rate for vouchered community-based training services is established in WIC section 4688.21(c)(7) at $13.47 per hour.

Assembly Bill (AB) 2X 1, Chapter 3, Statutes of 2016, added sections 4691.10 and 4691.11 to the WIC, authorizing rate increases for regional center service providers for the purpose of:

1. Enhancing wages and benefits for staff who spend a minimum of 75 percent of their time providing direct services to consumers and;
2. Accounting for service provider administrative expenses.

Implementation of these rate increases required the development of a survey to calculate the appropriate rate increases for each service category so that the total amount of the increase did not exceed the allocated funding level. While WIC Sections 4691.10 and 4691.11 indicate the rate increases are applicable to both supported employment and vouchered community-based training services, the actual rate increases had not been calculated at the time AB 2X 1 was chaptered.

TRAILER BILL PROPOSAL

The Department is proposing to update the rates for supported employment and vouchered community-based training services that were adjusted as a result of AB 2X-1. The proposed trailer bill will update the hourly rate for individual and group supported employment in WIC Section 4860 (a) and (b) to $36.57; current statute indicates the rate is $34.24. Additionally, the proposed trailer bill will update the hourly rate for vouchered community-based training services in WIC Section 4688.21(c)(7) to $14.99; current statue indicates the rate is $13.47.

The proposed changes will update the rates for supported employment and vouchered community-based training services to reflect the rate increases authorized by WIC

Sections 4691.10 and 4691.11. DDS states that this will align rates set in statute with the provisions of AB 2X-1 for supported employment and vouchered community-based training services.

Staff Recommendation:

No action is needed at this time. The trailer bill will continue to be reviewed by Subcommittee staff and can be acted on at the May Revision hearings.

ISSUE 9: GOVERNOR'S TBL REQUEST #634 ON REGIONAL CENTER REPORTING OUTCOMES

PANEL

- Nancy Bargmann, Director, Department of Developmental Services
  - Please present on the DDS trailer bill proposal.
- Teresa Calvert, Department of Finance
- Sonja Petek, Legislative Analyst's Office
- Public Comment

BACKGROUND

In October 2013, Governor Brown signed the Employment First Policy legislation, which, among other things, requires each regional center planning team, when developing an individual program plan for a transition age youth or working age adult, to consider a specified Employment First Policy. It also requires regional centers to provide consumers aged 16 years or older, and other specified persons when appropriate, with information about the Employment First Policy, options for integrated competitive employment, services, and supports, including postsecondary education. Information is provided to enable the consumer to transition from school to work while achieving the outcomes of obtaining and maintaining integrated competitive employment.

In December 2014, the Departments of Rehabilitation, Developmental Services, and Education entered into an agreement in collaboration with Disability Rights California to develop a State blueprint for competitive integrated employment. The three departments worked together over a two-year period developing the blueprint for competitive integrated employment for individuals with developmental disabilities. The draft blueprint was published in November 2016, to obtain additional public input. The blueprint focuses on moving toward models of competitive integrated employment that pay a livable wage, expanding capacity and the number of supported employment providers, and phasing out programs that pay sub-minimum wages that are currently allowed under federal and state laws, under specified conditions, for people with disabilities. The final blueprint is expected to be published in the summer of 2017.

The Developmental Services Task Force, led by the California Health and Human Services Secretary, considers consumer employment a high priority. Consequently, the Task Force formed a workgroup to examine the status of consumer employment and make recommendations for improvement. The workgroup met three times and is in the process of developing a list of recommendations for the full Task Force to consider for future action.

Pursuant to Welfare and Institutions Code section 4629, regional centers annually collaborate with their local communities to develop performance contracts. Performance contracts contain public policy outcomes that reflect the tenets of the

Lanterman Developmental Disabilities Services Act (Lanterman Act), compliance measures that reflect requirements regional centers must fulfill, and optional local measures, based on agreements between regional centers and their local constituencies. Since 2001, the outcomes and measures contained in performance contracts have remained relatively unchanged. However, three years ago, the Department began encouraging regional centers to include employment outcomes as part of their local measures. With the approval of the 2017 performance contracts, five regional centers have not yet included employment in their performance contracts.

Increasing employment opportunities for individuals with developmental disabilities is consistent with the purpose and intent of the Lanterman Act. It also enables individuals to be more fully included in their local communities and reduces the need for public assistance.

TRAILER BILL PROPOSAL

The proposed language would require the annual performance objectives in regional center contracts to measure progress, and report outcomes, in implementing the Employment First Policy.

Staff Recommendation:

No action is needed at this time. The trailer bill will continue to be reviewed by Subcommittee staff and can be acted on at the May Revision hearings.

ISSUE 10: GOVERNOR'S TBL REQUEST #635 ON ENHANCED BEHAVIORAL SUPPORT HOMES EXTENSION

PANEL

- Nancy Bargmann, Director, Department of Developmental Services
  - Please present on the DDS trailer bill proposal.
- Teresa Calvert, Department of Finance
- Sonja Petek, Legislative Analyst's Office
- Public Comment

BACKGROUND

Welfare and Institutions Code sections 4684.80-4684.87 and 4698-4698.1 authorize DDS to develop Enhanced Behavioral Supports Homes (EBSH) and Community Crisis Homes (CCH), respectively, through the use of Community Placement Plan funding. These sections also authorize DDS to promulgate regulations for the implementation of these two models of homes. DDS promulgated emergency regulations for EBSH and the permanent regulations are close to becoming final. Additionally, DDS is currently in the process of promulgating emergency regulations to implement the development of CCH.

These two models of care are necessary components of the continuum of residential options for individuals with developmental disabilities in California. They will form part of the "safety net", being developed to provide services for individuals with challenging service needs, particularly given the pending closure of Sonoma Developmental Center, Fairview Developmental Center and the non-secure portion of Porterville Developmental Center. DDS anticipates also serving individuals who would otherwise be placed in Institutions for Mental Disease or out-of-state, both of which are ineligible for federal reimbursements.

When purchasing regional center services, DDS attempts to maximize the receipt of federal Home and Community-Based Services (HCBS) funding. The current EBSH and CCH statutory authority requires the services qualify for federal HCBS funding. The majority of the EBSH and CCHs currently being developed statewide will qualify for federal HCBS funding; however, DDS and regional centers recognize a need to develop a limited number of homes with delayed egress devices and secured perimeters to meet the needs of individuals with developmental disabilities with the most complex service needs and serve as an effective option within California's safety net.

TRAILER BILL PROPOSAL

The proposed language will amend Welfare and Institutions Code Sections 4648.80(a) and 4698(c)(1), to allow DDS to approve, at the discretion of the director, EBSH and CCHs to be developed with the utilization of delayed egress devices and secured perimeters, thus making them ineligible for federal HCBS funding. These amendments will allow the department to better accommodate the needs of individuals with developmental disabilities with the most complex service needs. These homes are particularly needed for individuals with elopement issues, whose safety and well-being would be at risk if not for the use of delayed egress devices and secured perimeters. Both of these residential options will be fully integrated into the community, will be home-like, and are much preferred options of residential care over other more restrictive types of care. Despite the fact these homes will not qualify for federal HCBS funding, the loss of federal funding will be offset by regional centers reducing reliance on the use of locked psychiatric facilities, which tend to be costly placements.

Current law caps the size of licensed homes with delayed egress devices and secured perimeters at six beds, with the exception of a limited number of homes for individuals designated as incompetent to stand trial (see Health & Safety Code § 1531.15). CCHs, however, may be licensed for up to eight beds. Therefore, the proposed trailer bill language would also create an exception to the Health & Safety Code to allow DDS to approve up to one third of CCHs with delayed egress devices and secured perimeters to exceed the six-bed limit.

Staff Recommendation:

No action is needed at this time. The trailer bill will continue to be reviewed by Subcommittee staff and can be acted on at the May Revision hearings.

ISSUE 11: GOVERNOR'S BCP #2 ON INFORMATION SECURITY AND PRIVACY SUPPORT

PANEL

- John Doyle, Chief Deputy Director, Department of Developmental Services
  - Please present on the DDS budget change proposal.
- Teresa Calvert, Department of Finance
- Sonja Petek, Legislative Analyst's Office
- Public Comment

BUDGET CHANGE PROPOSAL

The Governor's Budget requests $398,000 ($317,000 General Fund) for 3.0 permanent positions to provide resources to monitor, train, advise, and support required security activities at headquarters, the DCs, and the regional centers (RCs) for compliance with state and federal information security and privacy laws. Two specialists will assist and support DC and regional center security efforts, and conduct activities in compliance with the State Administrative Manual (SAM), the State Information Management Manual (SIMM), and federal requirements. Duties will include regular travel to regional centers and developmental centers. The third specialist will be dedicated full-time to threat monitoring and risk reduction, and provide expertise to staff in utilizing complex security monitoring tools, including vulnerability scanning, centralized logging, anti-virus monitoring, patch management and firewall configuration management, and security audit log monitoring.

Staff Recommendation:

No action is needed at this time. The BCP will continue to be reviewed by Subcommittee staff and can be acted on at the May Revision hearings.

ISSUE 12: DC CLOSURE UPDATE

PANEL

- Nancy Bargmann, Director, John Doyle, Chief Deputy Director, and Dwayne La Fon, Deputy Director, Department of Developmental Services
  - Please present on the DC closure process, current progress toward closure, and any issues or concerns for legislative consideration.
- Teresa Calvert, Department of Finance
- Sonja Petek, Legislative Analyst's Office
- Public Comment

OVERVIEW

The DDS serves an estimated 847 consumers in 2016-17 at three state-run 24-hour institutions known as DCs—Fairview DC in Orange County, Porterville DC in Tulare County, and Sonoma DC in Sonoma County—as well as one community facility—Canyon Springs in Riverside County, which serves up to 63 people at any time. Porterville includes a General Treatment Area (GTA) and a Secure Treatment Program. Consumers placed in the secured program at Porterville have either been convicted of a crime or deemed a danger to themselves or others. In 2015, the Administration announced its intentions to close the three remaining DCs—Sonoma DC by the end of 2018 and Fairview DC and Porterville GTA by the end of 2021. Canyon Springs Community Facility and the secured area of Porterville will remain open indefinitely.

The Governor's budget proposes $450 million all funds ($330 million General Fund) for DCs, a net decrease of 15.1 percent below estimated 2016-17 expenditures.

MAJOR PROVISIONS FOR DEVELOPMENTAL CENTERS

Major Provisions for Developmental Centers (DCs).

- **Caseload and Utilization.** The actual DC population on July 1, 2016, was 963 residents. The Department projects an ending population of 760 residents on June 30, 2017. The Governor's Budget updates the 2016 Enacted Budget to $529.8 million ($368.5 million General Fund), a net increase of $3.9 million ($29.3 million General Fund increase). The net increase is a combination of control section and funding adjustments as described further below. The Governor's Budget proposes a total of $450 million ($330 million General Fund) for the DC Program for 2017-18, reflecting a net decrease of $76.2 million ($9.3 million General Fund decrease) from the 2016-17 enacted Budget. The net decrease is comprised of adjustments as described below.

- **Control Section 3.60 Retirement Adjustment.** The Governor's Budget includes a $3.6 million increase ($2.2 million General Fund increase) consistent with Control Section (CS) 3.60 of the Budget Act, which specifies the employers' retirement contributions for the 2016-17 fiscal year.

- **Employee Compensation.** The Governor's Budget proposes $1.1 million increase ($0.6 million General Fund increase) due to 2016-17 employee compensation adjustments, which reflect incremental changes approved through the collective bargaining process and included in Item 9800, Employee Compensation Adjustments. There is also an adjustment for 2017-18 reflecting $1.3 million increase ($0.8 million General Fund increase) due to 2016-17 employee compensation adjustments, which reflect incremental changes approved through the collective bargaining process and included in Item 9800, Employee Compensation Adjustments.

- **Lease Revenue Debt Service.** The Governor's Budget proposes $0.7 million total and General Fund decrease due to Control Section (CS) 4.05 for an adjustment to Lease Revenue Debt Service. For 2017-18, the Governor's Budget includes $1.0 million total and General Fund decrease due to CS 4.05 for an adjustment to the Lease Revenue Debt Service.

- **Non-Budget Act Lottery Adjustment.** The Governor's Budget proposes a $0.1 million decrease ($0.0 General Fund) in funds available to the Department. The same is proposed for 2017-18.

- **Fund Shift.** The Governor's Budget proposes a $27.1 million shift from reimbursements to the General Fund for a reduction in estimated Medi-Cal reimbursements receivable. The reduction in reimbursements is based on an analysis of expenditures by DC and by unit acuity level, the total number of days residents receive eligible services in the fiscal year, and past reimbursement amounts. DDS proposes this request be funded by a transfer from the Local Assistance budget in Item 4300-101-0001, which is currently projecting a savings in 2016-17.

- **DC Operations Expenditure Decrease.** A net decrease of $80.8 million ($11.9 million General Fund decrease) and -489.2 positions resulting from an estimated resident population decrease of 257 residents, as well as the removal of one-time funding to complete an assessment of the Sonoma property and buildings. With a reduced population, the Department will consolidate units, and decrease staff and Operating Expenses and Equipment (OE&E) costs. The General Fund decrease as compared to the overall fund decrease reflects the reduction of Medi-Cal reimbursements consistent with the updated 2016-17 budget, as based on an analysis of expenditures by DC and by unit acuity level, the total number of days residents receive eligible services in the fiscal year, and past reimbursement amounts.

- **Sonoma Closure Activities.** The Governor's Budget proposes a $0.3 million increase ($0.2 million General Fund increase) in 2017-18 to fund the disposal and/or relocation of physical property and equipment assets in preparation for facility closure.

- **Fairview and Porterville GTA Closure Activities.** The Governor's Budget proposes a $0.5 million increase ($0.4 million General Fund increase) in 2017-18 to inventory, scan, and archive clinical records at both Fairview and Porterville GTA.

DC CLOSURE UPDATE

DDS provides extensive information on DC movement and Community Services creation for movers. Below is a chart on DC census that was recently provided.

Total population for closing facilities declined by 44 from October 1, 2016 through December 31, 2016. Population for non-closure facilities decreased by 3 for a net decrease in total population of 47. As of December 31, 2016, the Northern STAR home had one vacancy.

POPULATION			**Q2 FY 16/17**	
			10/1/16	**12/31/16**
CLOSURE	Fairview (FDC)	NF	82	78
		ICF	125	112
	Porterville (PDC)	NF	45	41
		ICF (GTA)	95	88
	Sonoma (SDC)	NF	151	144
		ICF	183	174
	All Facilities	NF	278	263
		ICF	403	374
		Subtotal	**681**	**637**
NON-CLOSURE	Canyon Springs (CS)	ICF	45	46
	FDC	Southern STAR	4	5
	PDC	ICF (STP)	209	204
	SDC	Northern STAR	4	4
	All Facilities	**Subtotal**	**262**	**259**
TOTAL			**943**	**896**

Acronyms: *GTA = General Treatment Area; STP = Secure Treatment Program NF/ICF = Skilled Nursing Facility/Intermediate Care Facility STAR = Stabilization, Training, Assistance and Reintegration*

STATUS UPDATE ON FEDERAL FUNDING FOR DCS

The following background is from the aforementioned recent LAO Report on the DDS budget:

Several years ago, the California Department of Public Health (DPH), the state department that has licensing and certification responsibilities over DCs, found the intermediate care facilities for the developmentally disabled (ICF/DDs) at Sonoma, Fairview, and Porterville DCs to be out of compliance with federal certification requirements. In 2013, DDS voluntarily decertified four ICF/DD units at Sonoma DC, but to retain federal funds for the remaining seven units, DDS entered into a settlement agreement (which included a program improvement plan) with the federal Centers for Medicare and Medicaid Services (CMS), DPH, and the California Department of Health Care Services (DHCS). Nevertheless the ICF/DD units at Sonoma were ultimately decertified and became ineligible for federal funding as of July 1, 2016. Despite failing compliance surveys in 2015, Fairview and Porterville DCs have subsequently been more successful in their attempts to implement corrective actions for their ICF/DD units. The CMS, DPH, DHCS, and DDS entered into settlement agreements in July 2016 for Fairview and Porterville GTA DCs that would have terminated funding at the end of 2016. The agreements, however, allowed the certification of these residential units to be extended annually through the end of 2019, and federal funding was recently extended through 2017.

The recently extended settlement agreements at Fairview and Porterville GTA DCs included a number of key activities that should keep DDS on track to retain federal funding, including independent monitoring of client protections, health care, and behavioral health and active treatment at each DC. In addition, interdisciplinary teams will monitor the individual transition plans of residents as preparations are made to move them into the community. The DDS notes that its independent monitor conducts mock certification surveys at each DC in an effort to stay ahead of possible deficiencies.

Although DDS has successfully extended the termination date of Fairview and Porterville ICF/DD certification, CMS reserves the right to revoke certification at any time. If certification is revoked, DDS estimates the monthly loss of funds at $6.7 million in 2016-17 and $4 million in 2017-18 ($48 million in annual terms). While DDS is using the same independent monitoring company that it used at Sonoma DC, whose units were decertified, it believes the lessons learned at Sonoma by this monitor can be leveraged at Fairview and Porterville DCs.

Ten years ago, California's General Fund accounted for less than 50 percent of the annual DC budget, whereas it now comprises more than 70 percent. This reflects that as DC populations decline, there are fewer federally reimbursable services provided, yet base-level operating costs for the facilities remain. The state is now spending about what it did in 2008-09 in real dollars despite an estimated decline in caseload of about 70 percent and in the number of state staff of about 50 percent. Beginning in 2020, none of the ICF/DD units at Fairview and Porterville DCs will be eligible for federal funding. It is important to keep closures on track to keep state costs down. The DDS is confident that Sonoma DC will close on time, yet the number of resident transitions in 2016-17 has not kept pace with initial expectations. Last year, DDS estimated that Sonoma's resident population would reduce in half over the course of 2016-17 (from 298 on July 1, 2016 to 156 by June 30, 2017). It now estimates the population will decline just 16 percent (to 249) by June 30, 2017.

STAFF COMMENT

Maintaining progress with DC closure is very important for both meeting policy and fiscal expectations. DDS holds quarterly in-depth briefings with legislative staff on the progress of DC closure. These are highly valued and comprehensively executed by the DDS and Regional Center staff, however, they should not supplant or replace the need for the Administration to raise any broad or policy issues for the Subcommittee to consider regarding the DC closures, particularly significant issues that might impede or complicate the planned movements of consumers. Therefore, staff recommend that the Subcommittee consider requesting this information if it is not readily provided in the course of the hearing update.

Staff Recommendation:

The May Revision will adjust estimates for the Developmental Centers Program, so staff recommends that the Subcommittee hold these issues open until action can be taken at that time.

ISSUE 13: GOVERNOR'S TBL REQUEST #629 ON REGIONAL CENTER CONTRACTS

PANEL

- Nancy Bargmann, Director, Department of Developmental Services
  - Please present on the DDS trailer bill proposal.
- Teresa Calvert, Department of Finance
- Sonja Petek, Legislative Analyst's Office
- Public Comment

BACKGROUND

Since 1995, DDS has closed four developmental centers (Stockton Developmental Center in 1996, Camarillo State Hospital and Developmental Center in 1997, Agnews Developmental Center in 2009, and Lanterman Developmental Center in 2014) and one community facility (Sierra Vista Community Facility in 2009). DDS is in the process of closing the three remaining non-secure developmental centers: Sonoma Developmental Center, Fairview Developmental Center, and the Porterville Developmental Center General Treatment Area. Due to these system changes, opportunities for staff to work in the DCs are becoming very limited. DDS and the regional centers have a shared interest in retaining the services of qualified civil service employees in the developmental disabilities service system during and after the closure of a developmental center. DDS states that achieving this outcome will benefit consumers, the developmental center employees, and the parents, families and advocates/representatives and help develop the quality and continuity of services.

One method for employees to continue to serve individuals with developmental disabilities after a developmental center closes is for the employee to become a community service provider. Chapter 26, Statutes of 2016 (AB 1606) created an exemption to Public Contract Code section 10410, allowing DDS employees to continue working for the state while under contract with a regional center to develop regional center services. The primary objective is to encourage developmental center employees to become community service providers while maintaining state employment and income during the provider start-up period.

TRAILER BILL PROPOSAL

Proposed trailer bill language from the Administration will allow an employee to continue state employment during the contract term between the employee and the regional center. Currently, before the employee begins to provide regional center-funded services to a consumer, the employee must terminate state employment to avoid a conflict of interest.

Current statute ties the point-in-time an employee must terminate state employment to vendorization. However, it has been determined that there are different interpretations of when vendorization occurs. The proposed language would make clear that an employee can continue state employment during the initial start-up period. Removing references to vendorization provides clarification regarding the time frame the employee can continue working for the state and not create a conflict of interest. This clarification will further encourage the use of the existing provisions.

Staff Recommendation:

No action is needed at this time. The trailer bill will continue to be reviewed by Subcommittee staff and can be acted on at the May Revision hearings.

ISSUE 14: GOVERNOR'S CO BCP #1 ON NITRATE REMOVAL SYSTEM AT PORTERVILLE DC

PANEL

- John Doyle, Chief Deputy Director, Department of Developmental Services
  - Please present on the DDS budget change proposal.
- Teresa Calvert, Department of Finance
- Sonja Petek, Legislative Analyst's Office
- Public Comment

CAPITAL OUTLAY BCP

The Governor's Budget requests $3.7 million General Fund to install a nitrate removal system to remove to a safe level excess nitrates from domestic water supply, as supported by the Department of General Services contracted study. Groundwater in certain areas of the Porterville region is particularly impacted by nitrate contamination due to agricultural, commercial, and industrial activities including fertilization and discharges from animal operations.

The Tule Lake Water Basin on which the Porterville DC is located has been affected by high nitrate contamination levels which has made water delivery increasingly difficult to handle. Nitrate levels have been up to 33% higher than the Minimum Contamination Levels (MCL) of 45ppm. Nitrate is a carcinogen and if not properly blended (diluted) or treated, nitrate contaminated water can pose significant health risks. Production limitations of the existing water well portfolio have restricted Porterville DC's ability to mitigate nitrate contamination through blending and DDS states that an auxiliary means of treating the nitrate contamination is needed to assure a reliable and sufficient quality water supply to the facility.

Staff Recommendation:

No action is needed at this time. The BCP will continue to be reviewed by Subcommittee staff and can be acted on at the May Revision hearings.

5160 DEPARTMENT OF REHABILITATION

The Governor's budget proposes total spending of $446.6 million ($61.5 million General Fund), representing virtually no change from the current year. The Department of Rehabilitation (DOR) works in partnership with consumers and other stakeholders to provide services and advocacy resulting in employment, independent living, and equality for individuals with disabilities.

ISSUE 1: GOVERNOR'S REDUCTION TO INDEPENDENT LIVING CENTERS AND ADVOCACY REQUEST

PANEL

- Joe Xavier, Director, and Irene Walela, Deputy Director, Department of Rehabilitation
  - Please present on the Governor's proposed cut to Independent Living Centers.
- Justin Freitas, Department of Finance
- Assemblymember Rudy Salas
- Teresa Favuzzi, Executive Director, California Foundation for Independent Living Centers
- Ginni Bella, Legislative Analyst's Office
- Public Comment

BACKGROUND

The Department of Rehabilitation funds, administers and supports 28 non-profit independent living centers in communities located throughout California. Independent Living Services are consistent with the provisions of Title VII of the federal Rehabilitation Act to promote a philosophy of independent living, including consumer control, peer support, self-help, self-determination, equal access, and individual and system advocacy, in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities, and the integration and full inclusion of individuals with disabilities into the mainstream of American society. ILCs provide these services to consumers of all ages.

The 28 ILCs throughout the state listed below:

Access 2 Independence
Center for Independence of Individuals with Disabilities
Center for Independent Living
Central Coast Center for Independent Living
Communities Actively Living Independent and Free
Community Resources for Independent Living
Dayle McIntosh Center for the Disabled
Disability Action Center
Disability Resources Agency for Independent Living
Disability Services and Legal Center
Disabled Resource Center, Inc.
FREED Center for Independent Living

Independent Living Center of Kern County
Independent Living Center of Southern California
Independent Living Resource Center - Santa Barbara
Independent Living Resource Center - San Francisco
Independent Living Resource Center of Contra Costa
Independent Living Center
Marin Center for Independent Living
Placer Independent Resource Services
Resources for Independence Central Valley
Resources for Independent Living
Rolling Start
Services Center for Independent Life
Silicon Valley Independent Living Center
Southern California Resources Services for Independent Living
Tri-County Independent Living, Inc.
Westside Center for Independent Living

ILC's receive government funding from two sources: Title VII (c) funds from the U.S. Department of Health and Human Services, under the Administration for Community Living (ACL); and, Title VII (b) funds through the Department of Rehabilitation (DOR). State funds come from Social Security Reimbursement Program Income through the DOR. All ILC government funding is used to provide eight mandated services:

1. Information and referral (federally mandated)
2. Peer support (federally mandated)
3. Advocacy (federally mandated)
4. Independent living skills training (federally mandated)
5. Transition services (NEW federal mandate)
6. Assistive Technology (in California)
7. Housing (in California) – referrals provided
8. Personal Assistance Services (in California) – referrals and technical assistance provided, not a duplicate of IHSS services

GOVERNOR'S PROPOSAL

The Governor proposed to remove a $705,000 augmentation that was provided in the 2016 Budget for three of the ILCs, including the Disability Resources Agency for Independent Living (DRAIL), serving Amador, Calaveras, Tuolumne, Mariposa, Stanislaus, and San Joaquin Counties; the Independent Living Center of Kern County (ILCKC), serving Kern County; and Placer Independent Resources Services, Inc., serving Placer, El Dorado, and Alpine Counties.

ADVOCACY RESPONSE

The California Foundation for Independent Living Centers has weighed in in strong opposition to this cut. In addition, the Subcommittee is in receipt of a letter from Assemblymember Rudy Salas, signed by multiple other Members in both the Assembly and Senate, requesting that the funding that was appropriated last year be restored.

Staff Recommendation:

Staff recommends rejection of this cut as proposed in the Governor's Budget.

ISSUE 2: GOVERNOR'S PROPOSAL REGARDING THE TRAUMATIC BRAIN INJURY FUND

PANEL

- Joe Xavier, Director, and Irene Walela, Deputy Director, Department of Rehabilitation
  - Please present on the TBI proposal in the Governor's Budget.
- Justin Freitas, Department of Finance
- Ginni Bella, Legislative Analyst's Office
- Public Comment

GOVERNOR'S PROPOSAL

The Traumatic Brain Injury Fund receives a portion of specified fines and penalties from the State Penalty Fund to support an array of rehabilitation services for adults 18 years of age and older with an acquired traumatic brain injury. The State Penalty Fund has suffered reduced revenues over the last 10 years. The Governor's Budget states that given this decrease, the current funding model is unsustainable and broad changes are needed to address this problem. For 2017-18, the Governor's Budget transfers $800,000 from the State Penalty Fund to the Traumatic Brain Injury Fund on a one-time basis to continue support for the program.

Staff Recommendation:

No action is needed at this time. The TBI funding proposal will continue to be reviewed by Subcommittee staff and can be acted on at the May Revision hearings.

ISSUE 3: GOVERNOR'S BCP ON SUPPORTED EMPLOYMENT PROGRAM: INCREASE JOB COACHING RATES

PANEL

- Joe Xavier, Director, and Irene Walela, Deputy Director, Department of Rehabilitation
    - Please present on the budget change proposal.
- Justin Freitas, Department of Finance
- Ginni Bella, Legislative Analyst's Office
- Public Comment

BUDGET CHANGE PROPOSAL

The Governor's Budget requests on-going funding of $500,000 General Fund to match the increased supported employment (SE) provider hourly rate identified in the DDS June 2016 New Provider Rate memo as required by AB 2X 1 of 2016 that increased DDS SE rates. SE job coaching is a Vocational Rehabilitation service that provides individuals with the most significant disabilities with on-the-job support, enabling them to become employed in competitive and integrated work environments. SE job coaching services are provided by both DOR and DDS regional centers. DOR is the main vocational rehabilitation program provider for adults with developmental disabilities and is responsible for identifying and making arrangements with private non-profit organizations to provide SE job coaching services. DDS SE job coaching hourly rates, intake, placement, and retention services are statutorily-defined. Although not required to comply, DOR has historically set a rate structure consistent with DDS to avoid disparity among the job coaching service providers.

Staff Recommendation:

No action is needed at this time. The BCP will continue to be reviewed by Subcommittee staff and can be acted on at the May Revision hearings.

ISSUE 4: GOVERNOR'S BCP ON CALIFORNIA INNOVATIONS PROGRAM: FEDERAL WORK-BASED LEARNING GRANT FOR STUDENTS WITH DISABILITIES

PANEL

- Joe Xavier, Director, and Irene Walela, Deputy Director, Department of Rehabilitation
  - Please present on the budget change proposal.
- Justin Freitas, Department of Finance
- Ginni Bella, Legislative Analyst's Office
- Public Comment

BUDGET CHANGE PROPOSAL

The Governor's Budget requests 1.0 permanent full-time position to manage this $9 million federal grant over a six-year total period. The position will provide program oversight and perform contracting and data management activities required to administer the grant. The grant activities, according to DOR, will provide increased self-sufficiency through planned education and work-based learning experiences for students with disabilities. The federal grant has a five-year grant period (there is a post-grant period of one year where the staff will still be needed for reporting and close out) and there is no state match requirement. DOR will utilize existing federal funds authority for the expenditure.

DOR intends for the grant program to reach 800 students with disabilities who are between the ages of 16-21 and have either an individualized Educational Plan or 504 plan. DOR will collaborate with Local Education Agencies (LEAs) to provide services such as paid and non-paid career focused internships, participation in career pathway programs and collaboration with local Workforce Development Boards (WDBs), and entrance into post-secondary education and/or Competitive Integrated Employment (CIE) to students with disabilities.

Staff Recommendation:

No action is needed at this time. The BCP will continue to be reviewed by Subcommittee staff and can be acted on at the May Revision hearings.

ISSUE 5: GOVERNOR'S BCP ON INFORMATION SECURITY COMPLIANCE

PANEL

- Joe Xavier, Director, and Irene Walela, Deputy Director, Department of Rehabilitation
  - Please present on the budget change proposal.
- Justin Freitas, Department of Finance
- Ginni Bella, Legislative Analyst's Office
- Public Comment

BUDGET CHANGE PROPOSAL

The Governor's Budget requests $281,000 General Fund for 2.0 permanent full-time positions to provide adequate staffing for DOR's Information Security Office (ISO), compliance with information security and privacy policies, standards, and procedures, and maintain the overall safety and security of DOR data. DOR states that these positions will provide the staff resources necessary to develop and manage an effective information security and risk management program covering over 1,800 employees in 86 offices throughout the state and safeguarding the data of over 100,000 individuals with disabilities. In the past 12 months, the DOR has undergone several security assessments and determined its information security program to be lacking, putting the Department at risk. The DOR has developed a Plan of Action and Milestones (POAM) to address areas identified as being below the Nationwide Cyber Security Review recommended maturity levels and requires sufficient staffing to implement it.

Staff Recommendation:

No action is needed at this time. The BCP will continue to be reviewed by Subcommittee staff and can be acted on at the May Revision hearings.