

AGENDA**ASSEMBLY BUDGET SUBCOMMITTEE NO. 1 ON HEALTH AND HUMAN SERVICES****ASSEMBLYMEMBER TONY THURMOND, CHAIR****WEDNESDAY, MARCH 16, 2016
10:00 A.M. - STATE CAPITOL ROOM 4202**

ITEMS TO BE HEARD		
ITEM	DESCRIPTION	
5160	DEPARTMENT OF REHABILITATION	
ISSUE 1	DEPARTMENT OVERVIEW AND BUDGET CHANGE PROPOSALS <ul style="list-style-type: none"> • DEPARTMENT OVERVIEW • WORKFORCE INNOVATION AND OPPORTUNITY ACT • GOVERNOR'S BUDGET CHANGE PROPOSALS 	4
4300	DEPARTMENT OF DEVELOPMENTAL SERVICES	
ISSUE 2	DEPARTMENT OVERVIEW AND HEADQUARTERS PROPOSALS <ul style="list-style-type: none"> • DEPARTMENT AND BUDGET OVERVIEW • GOVERNOR'S HEADQUARTERS BUDGET CHANGE AND CAPITAL OUTLAY PROPOSALS 	9
ISSUE 3	COMMUNITY SERVICES DIVISION OVERVIEW AND GOVERNOR'S PROPOSALS <ul style="list-style-type: none"> • COMMUNITY SERVICES OVERVIEW • GOVERNOR'S BUDGET CHANGE PROPOSALS • PROPOSED TRAILER BILL LANGUAGE 	14
ISSUE 4	SERVING CONSUMERS IN THE COMMUNITY <ul style="list-style-type: none"> • HOME AND COMMUNITY-BASED SERVICES WAIVER • SELF-DETERMINATION PROGRAM • ISSUES RAISED BY ADVOCATES 	22

LIST OF PANELISTS IN ORDER OF PRESENTATION**5160 DEPARTMENT OF REHABILITATION****ISSUE 1: DEPARTMENT OVERVIEW AND BUDGET CHANGE PROPOSALS**

- Joe Xavier, Director, Department of Rehabilitation
- Kelly Hargreaves, WIOA Project Director and Chief Counsel, Department of Rehabilitation
- Gini Bella Navarre, Fiscal and Policy Analyst, Legislative Analyst's Office
- Justin Freitas, Finance Budget Analyst, Department of Finance
- Public Comment on Department of Rehabilitation

4300 DEPARTMENT OF DEVELOPMENTAL SERVICES**ISSUE 2: DEPARTMENT OVERVIEW AND HEADQUARTERS PROPOSALS**

- John Doyle, Chief Deputy Director, Department of Developmental Services
- Meredith Wurden, Fiscal and Policy Analyst, Legislative Analyst's Office
- Carla Castaneda, Finance Budget Analyst, Department of Finance
- Public Comment on Department Overview and Headquarters Budget Change Proposals

ISSUE 3: COMMUNITY SERVICES DIVISION OVERVIEW AND GOVERNOR'S PROPOSALS

- Jim Knight, Assistant Deputy Director, Community Services Division, Department of Developmental Services
- Meredith Wurden, Fiscal and Policy Analyst, Legislative Analyst's Office
- Carla Castaneda, Finance Budget Analyst, Department of Finance
- Public Comment on Community Services and the Governor's Proposals

ISSUE 4: SERVING CONSUMERS IN THE COMMUNITY

- Jim Knight, Assistant Deputy Director, Community Services Division, Department of Developmental Services
- Marty Omoto, Director, California Disability-Senior Community Action Network
- Judy Mark, Government and Community Relations Chair, Autism Society of Los Angeles
- Evelyn Abouhassan, Senior Legislative Advocate, Disability Rights California
- Meredith Wurden, Fiscal and Policy Analyst, Legislative Analyst's Office
- Carla Castaneda, Finance Budget Analyst, Department of Finance
- Public Comment on Serving Consumers in the Community

ITEMS TO BE HEARD**5160 DEPARTMENT OF REHABILITATION****ISSUE 1: DEPARTMENT OVERVIEW AND BUDGET CHANGE PROPOSALS****PANEL**

- Joe Xavier, Director, Department of Rehabilitation
- Kelly Hargreaves, WIOA Project Director and Chief Counsel, Department of Rehabilitation
- Gini Bella Navarre, Fiscal and Policy Analyst, Legislative Analyst's Office
- Justin Freitas, Finance Budget Analyst, Department of Finance
- Public Comment on Department of Rehabilitation

The California Department of Rehabilitation works in partnership with consumers and other stakeholders to provide services and advocacy resulting in employment, independent living, and equality for individuals with disabilities. The Department also serves blind and deaf-blind persons through counselor-teacher services, purchase of reader services, and community-based projects to serve the elderly blind.

DEPARTMENT OVERVIEW

Vocational Rehabilitation. The Vocational Rehabilitation (VR) Services Program delivers vocational rehabilitation services to persons with disabilities through vocational rehabilitation professionals in district and branch offices located throughout the state. In addition, the Department has cooperative agreements with state and local agencies (education, mental health, and welfare) to provide unique and collaborative services to consumers. The Department operates under a federal Order of Selection process, which gives priority to persons with the most significant disabilities.

Persons with disabilities who are eligible for the Department's vocational rehabilitation services may be provided a full range of services, including vocational assessment, assistive technology, vocational and educational training, job placement, and independent living skills training to maximize their ability to live and work independently within their communities.

The Department also provides comprehensive training and supervision to enable persons who are blind or visually impaired to support themselves in the operation of vending stands, snack bars, and cafeterias. Pre-vocational services are provided by the Orientation Center for the Blind to newly blind adults to prepare them for vocational rehabilitation services and independent living.

The Department also works with public and private organizations to develop and improve community-based vocational rehabilitation services for the Department's consumers. The Department sets standards, certifies Community Rehabilitation Programs, and establishes fees for services provided to its consumers.

Independent Living Services. The Department funds, administers, and supports 28 non-profit independent living centers in communities located throughout California. Each independent living center provides services necessary to assist consumers to live independently and be productive in their communities. Core services consist of information and referral, peer counseling, benefits advocacy, independent living skills development, housing assistance, personal assistance services, and personal and systems change advocacy.

Traumatic Brain Injury Program. The Department also administers and supports the Traumatic Brain Injury (TBI) Program. In coordination with consumers and their families, seven service providers throughout California provide a coordinated post-acute care service model for persons with TBI. The program provides Supportive Living, Community Reintegration, Vocational Support, Information and Referral, and Education for individuals with TBI that don't qualify for nursing facilities, in-patient care programs, or the Vocational Rehabilitation Program. The TBI program was transferred from the Department of Mental Health to DOR in 2010. At that time, the program was funded with approximately \$1.2 million through the State Penalty Fund. As the State Penalty Fund dollars have diminished, so has the funding for the TBI program.

The Governor's budget proposes total spending of \$435.5 million, an increase of 0.7 percent from the current year.

Fiscal Overview:

Fund Source	2014-15	2015-16	2016-17	BY to CY Change	% Change
General Fund	\$58,389	\$59,780	\$59,894	\$114	.19%
Traumatic Brain Injury Fund	\$947	\$1,004	\$1,202	198	19.7%
Vending Stand Fund	\$804	\$2,361	\$2,361	-	-
Federal Trust Fund	\$348,226	\$370,370	\$372,772	2,402	.64%
Reimbursements	\$6,487	\$7,680	\$7,680	-	-
Total Expenditures	\$414,853	\$441,195	\$443,909	2,714	.62%
Positions	1,796.4	1,762.4	1,778.4	16	0.9%

**WORKFORCE INNOVATION AND
OPPORTUNITY ACT**

Recent Federal Changes Will Impact DOR. On July 22, 2014 the Workforce Innovation and Opportunity Act (WIOA) was signed into law. This landmark federal legislation makes significant changes to vocational rehabilitation and independent living programs in California and across the United States. WIOA, which replaces the Workforce Investment Act of 1998 and amends the Rehabilitation Act of 1973, is designed to help job seekers access employment, education, and support services to succeed in the modern labor market. WIOA reaffirms the role of the customer-focused one-stop delivery system, a cornerstone of the public workforce development system, and enhances and increases coordination among several key employment, education, and training programs.

WIOA requires DOR to provide counseling regarding other options for employment at or above minimum wage. For those employed in subminimum wage jobs, semi-annual counseling is required during the first year of employment and annual counseling each year thereafter. Employers are required to maintain records to show DOR has provided these services before hiring an individual age 24 and younger. WIOA also requires DOR to provide counseling in a manner understandable to an individual with a disability and that facilitates independent decision-making and informed choice by the consumer. Additionally, the WIOA requires an employer to provide the individual with information regarding self-advocacy, self-determination, and peer mentoring training opportunities.

GOVERNOR'S BUDGET PROPOSALS

The Governor's Budget proposes the following for DOR:

1. **Competitive Integrated Employment.** DOR requests authority to redirect \$1.5 million in federal funds in order to fund 11 permanent full-time positions to establish a new Vocational Rehabilitation Service Delivery team to support competitive integrated employment consistent with the mandates of the WIOA.

Currently, DOR does not have the capacity to counsel employees with disabilities whose employers may wish to continue to pay subminimum wage once this new requirement becomes effective. The 11 positions are requested in order to establish a Vocational Rehabilitation Service Delivery team. These teams will provide career counseling and resources for self-advocacy and other training for consumers.

2. **Supplemental Funding for Traumatic Brain Injury Fund.** DOR requests authority to redirect \$360,000 to the Traumatic Brain Injury (TBI) Fund from the Driver Training Penalty Fund in order to fully fund services that are legislatively mandated

of the TBI program. This reallocation of funds will ensure that Californians with TBI continue to receive essential services.

Due to a downward trend in the State Penalty Fund, the Traumatic Brain Injury now receives less funding than was previously allocated. This request will allow the TBI program to provide essential services to persons with Traumatic Brain Injury. This one-time allocation of \$360,000 will help stabilize the TBI fund and allow DOR to restore prior funding levels while continuing to engage with stakeholders to make informed decisions on best practices to expand services to more consumers.

- 3. Compliance with Federal Rehabilitation Services Administration.** DOR requests redirection of \$653,000 in existing Federal Funds in order to address the increased mandated workload in accounting, budgeting, information systems, federal reporting and oversight of federal grants. The Department notes that lack of compliance with the new federal mandates could result in enforcement action and loss of federal funds, which would impair DOR's ability to provide quality, effective services to Californians with disabilities.

This request is in alignment with recent decisions by the U.S. Department of Education and WIOA. The requested positions and funding will provide DOR the resources necessary to fulfill the increased workload associated with the new mandates.

LAO Comment. The Legislative Analyst's Office (LAO) notes that the request for supplemental funding for Traumatic Brain Injury fund is a temporary fix to a larger problem. The LAO provides the following comments, "Given that various state funds receiving criminal fine and fee revenue have been facing financial difficulty for years, the Legislature has few options beyond approving the Governor's proposed short-term solutions for addressing the operational shortfalls and insolvency in these state funds in 2016-17. However, to permanently address the recurring problem, the LAO recommends the Legislature implement ongoing, systemic changes to the state's criminal fine and fee system."

STAFF COMMENTS

Staff comments for each of the three proposals are as follows:

- 1. Competitive Integrated Employment.** In order for DOR to meet the new mandates of WIOA, the Department will be required to manage an increase workload of individuals with significant disabilities searching for competitive integrated employment. This proposal will allow DOR to have sufficient staff available in order to redirect and provide essential services to those individuals. Given the new requirements and DOR's

current lack of ability to fulfill new responsibilities, staff notes no concern with this proposal.

2. Supplemental Funding for Traumatic Brain Injury Fund. The overall conversation regarding the long-term plans for insolvency of the TBI fund as a result of the decrease of State Penalty Funds will be held in Budget Subcommittee No. 5 on Public Safety. However, the funding requested by DOR is necessary to maintain vital services. Staff notes no concern with this proposal.

3. Compliance with Federal Rehabilitation Services Administration. The staff finds the request for positions as a result of the increased workload from new WIOA mandates to be reasonable. The Subcommittee may also wish to have the Department report back on the increase of workload per division based on the new federal mandates.

Finally, the Subcommittee is in receipt of a letter from Assemblymember Rudy Salas, along with several co-signers, requesting additional funding for three Independent Living Centers that do not receive state funding. These three facilities, the Independent Living Center of Kern County, Disability Resource Agency for Independent Living (in Stockton), and Placer Independent Living Resources, serve a total of 11 counties. In order to resolve this, an annual investment of \$705,000 is requested.

Staff Recommendation:

Staff recommends holding the Department of Rehabilitation issues open in order to assess any Spring Letters or May Revision proposals along with the three proposals above.

4300 DEPARTMENT OF DEVELOPMENTAL SERVICES**ISSUE 2: DEPARTMENT OVERVIEW AND HEADQUARTERS BUDGET CHANGE PROPOSALS****PANEL**

- John Doyle, Chief Deputy Director, Department of Developmental Services
- Meredith Wurden, Fiscal and Policy Analyst, Legislative Analyst's Office
- Carla Castaneda, Finance Budget Analyst, Department of Finance
- Public Comment on Department Overview and Headquarters Budget Change Proposals

DEPARTMENT OVERVIEW

The Governor's Budget includes \$6.4 billion total funds (\$3.8 billion General Fund) for the Department in 2016-17; a net increase of \$394.4 million above the updated 2015-16 budget, a 6.7 percent total fund increase (7.5 percent General Fund increase).

The Department of Developmental Services (DDS) is responsible under the Lanterman Developmental Disabilities Services Act of 1969 (Lanterman Act) for ensuring that approximately 290,000 individuals 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.

The Department ensures coordination of services to persons with developmental disabilities; ensures that such services are planned, provided, and sufficiently complete to meet the needs and choices of these individuals at each stage of their lives; and, to the extent possible, accomplishes these goals in the individual's home community. The Department's goals are to:

- Expand the availability, accessibility, and types of services and supports to meet current and future needs of individuals and their families.
- Develop systems to ensure that quality services and supports are provided.
- Facilitate the dissemination of information to improve services and supports and the lives of people with developmental disabilities.
- Ensure the Department, state Developmental Centers (DCs), regional centers, and service providers comply with all applicable federal and state laws, regulations and contracts, including accounting for their funding in an appropriate manner.

Overview of Department's Major Areas. California provides services and support to individuals with developmental disabilities in two ways. The vast majorities 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). More than 99 percent of DDS consumers receive services in this way under the Community Services Program. These consumers live with their parents or other relatives, in their own houses or apartments, or in residential facilities or group homes designed to meet their needs. A smaller number of individuals, or less than 1 percent of the DDS caseload, live in three state-operated DCs and one state-operated community facility. The population for the current and budget years is expected to change as follows:

- The number of consumers with developmental disabilities in the community served by regional centers is estimated to increase from 290,496 in the current year to 302,419 in 2016-17.
- The number of consumers living in state-operated residential facilities is estimated to decrease from 955 in the current year to 747 by the end of 2016-17.

Developmental Centers Program. DDS operates three DCs: Fairview (Orange County), Porterville (Tulare County), and Sonoma (Sonoma County). Among other services, Porterville also provides secure treatment services.

The primary objectives of the DCs include providing care, treatment, and habilitation services in the most efficient, effective, and least restrictive manner to all individuals referred to the DCs by the regional centers, and/or the judicial system; and providing services to individuals that ensure increased independence, maintenance or improvement of health and welfare, and enhanced personal competence and effectiveness in all areas of daily living.

Community Services Programs. Through the network of RCs, the Department supports the development and maintenance of services for eligible persons with developmental disabilities who reside in the community. The regional centers directly provide or coordinate the following services and supports: (1) information and referral, (2) assessment and diagnosis, (3) counseling, (4) lifelong individualized planning and service coordination, formalized into an Individual Program Plan (IPP), (5) purchase of necessary services included in the IPP, (6) assistance in finding and using community and other resources, (7) advocacy for the protection of legal, civil, and service rights, (8) early intervention services for infants and their families, (9) family support, (10) planning, placement, and monitoring for 24-hour out-of-home care, (11) training and educational opportunities for individuals and families, (12) community education about developmental disabilities, and (13) habilitation services.

DDS provides RCs with an operations budget in order to conduct these activities. DDS also provides RCs with a budget to purchase services from vendors. These services

can include day programs, transportation, residential care provided by community care facilities, and support services that assist individuals to live in the community. The RCs purchase more than 100 different services on behalf of consumers. As the payer of last resort, RCs generally only pay for services if an individual does not have private insurance or if the RC cannot refer an individual to so-called “generic” services such as other state-administered health and human services programs for low-income persons or services that are generally provided at the local level by counties, cities, school districts, or other agencies. The majority of consumers receiving services through the Community Services Program are enrolled in Medi-Cal, California’s Medicaid program.

Budget Context. During a period of recent budget deficits, the Legislature enacted numerous DDS budget reductions and cost savings measures to yield General Fund savings, such as rate changes and provider payment reductions for RC vendors, service changes, and reliance on increased federal funding. The provider payment reductions experienced by RC vendors, including the 3 percent reduction in 2009-10, the 4.25 percent reduction in both 2010-11 and 2011-12, and the 1.25 percent reduction in 2012-13, have expired with no new provider payment reductions proposed for 2015-16. However, rates paid to providers established by statute or by the department have generally been frozen since 2003-04.

Rates negotiated by the RCs for new providers were limited beginning in 2008 to no higher than the median rate for that service. Certain RC programs and services have experienced further ongoing reductions. In 2008-09, the Supported Employment Program provider rates were cut by 10 percent (after having been increased by 24 percent in 2006-07) and remain at that level with no restorations proposed for 2015-16.

In 2009-10, a number of ongoing reductions were made to the Early Start program, which provides services to infants and toddlers under the age of three who have a developmental disability (and prior to 2009-10, to children who were at-risk for a developmental disability). Also in 2009-10, the DDS suspended the availability of certain services, including social/recreation activities, camping services and associated travel, educational services for school-aged children, and certain nonmedical therapies. In 2014-15, \$8 million was appropriated for the current year to restore eligibility to infants and toddlers to the level that was in place prior to the 2009-10 budget. This action also included \$16 million General Fund (GF) for 2015-16 and ongoing years.

The reductions sustained in DDS over the past several years are listed below, as provided by the Department:

- 2009-10 - \$517.0 million (\$460.1 GF)
- 2010-11 - \$251.2 million (\$227.1 GF)
- 2011-12 - \$339.8 million (\$255.3 GF)
- 2012-13 - \$240.4 million (\$257.0 GF)

The 2012-13 budget imposed a moratorium on admissions to DCs except for individuals involved in the criminal justice system, and consumers in an acute crisis needing short-

term stabilization. The high costs to maintain and staff these facilities, coupled with an emphasis on transitioning individuals back into their community, have led to the closure and/or restructuring of many developmental centers. The moratorium on DC admissions as well as the need for the availability of services in the community have led to a shift in spending from the developmental centers to the community services programs.

In May 2015, the Governor proposed to initiate the closure planning process for the remaining DCs. Sonoma DC by the end of 2018, and Fairview DC and the General Treatment Area of Porterville DC by the end of 2021. The chart below illustrates that budget continues to reflect the redirection of funds from the Developmental Centers to Community Services budget, as a result of the moratorium, closures, and proposed closures of the Centers.

	Revised 2015-16	Proposed 2016-17	Difference	Percent Change
Total Funds				
Community Services	\$5,335,142	\$5,774,088	\$438,946	8.2%
Developmental Centers	574,160	526,037	-48,123	-8.4
Headquarters Support	46,018	49,609	3,591	7.8
Total of All Programs	\$5,955,320	\$5,699,449	\$394,414	6.6%
General Fund				
Community Services	\$3,129,340	\$3,426,912	\$297,572	9.5%
Developmental Centers	348,778	307,481	-41,297	-11.8
Headquarters Support	29,857	32,637	2,780	9.3
Total of All Programs	\$3,507,975	\$3,767,030	\$259,055	7.4%

(Dollars in thousands)

Fiscal Overview. The budget proposes \$6.4 billion total funds (\$3.8 billion General Fund) for the Department in 2016-17; a net increase of \$394.4 million above the updated 2015-16 budget, or a 6.6 percent total fund increase (7.4 percent General Fund increase). This net increase in total expenditures generally reflects increases in the budget for the Community Services Program, partially offset by decreasing costs in the DC's Program budget.

GOVERNOR'S HEADQUARTERS BUDGET PROPOSALS FOR 2016-17

The Governor's Budget proposes Headquarters operations funding for 2016-17 of \$49.5 million Total Funds (\$32.6 million General Fund). This is a net increase of \$5.7 million Total Funds (\$4.3 million General Fund) over the 2015-16 Enacted Budget. The changes to the Headquarters budget reflect an incremental increase in Employee Compensation, a decrease for ProRata and SWCAP, and an increase in expenditures and positions from the following four Budget Change Proposals (BCPs):

- The Department requests \$2.1 million Total Funds (\$1.8 million General Fund), 8.0 new positions, and the redirection of 5.0 vacant positions for staffing and contract resources needed to support the continued efforts for the closure of the Sonoma, Fairview, and Porterville GTA. This includes overseeing the development and licensing of community facilities and consumer programs, supporting layoff activities, resolving workers' compensation claims, reconciling personnel and payroll records, and collaborating and communicating with stakeholders.
- **Fiscal and Program Research Unit.** The Department of Developmental Services (The Department) requests \$0.9 million Total Funds (\$0.6 million General Fund) and 7.0 positions to establish a Fiscal and Program Research Unit. The new unit will compile, research, and analyze fiscal and programmatic data in response to legislative, federal government, and stakeholder inquiries regarding regional center and developmental center programs and the provision of services to persons with developmental disabilities.
- **Home and Community-Based Services Regulations.** The Department requests \$0.5 million Total Funds (\$0.3 million General Fund) and 4.0 positions to accommodate increased workload associated with complying with the Centers for Medicare and Medicaid Services' (CMS) new Home and Community-Based Services regulations. The new, comprehensive regulations create additional workload for planning, training, assessing, and reporting activities to demonstrate compliance by March 2019 in order for the State to maintain \$1.7 billion annually in federal financial participation reimbursements for Purchase of Services expenditures.
- **Vendor Audits.** The Department requests \$1.0 million Total Funds (\$0.7 million General Fund) to permanently establish and retain funding for 7.0 limited-term auditor positions in the Vendor Audit Section. The positions, originally established as limited-term in Fiscal Year 2014-15, will continue to provide audit coverage and oversight of the more than \$4.6 billion in vendor payments disbursed each fiscal year.
- **Porterville Fire Alarms.** Additionally, the Department requests \$6.5 million GF for the construction phase of the upgrade to the fire alarm system at Porterville DC-STP. This funding will purchase and install a new Fire Alarm System in 10 buildings. The Preliminary Plans and Working Drawings phases were funded in last year's budget act.

STAFF COMMENTS

Staff notes that the requests for Headquarters and Capital Outlay seem reasonable and notes no concerns.

Staff Recommendation: Staff recommends holding these issues open pending May Revision updates.

ISSUE 3: COMMUNITY SERVICES DIVISION OVERVIEW AND GOVERNOR'S PROPOSALS

PANEL

- Jim Knight, Assistant Deputy Director, Community Services Division, Department of Developmental Services
- Meredith Wurden, Fiscal and Policy Analyst, Legislative Analyst's Office
- Carla Castaneda, Finance Budget Analyst, Department of Finance
- Public Comment on Community Services and the Governor's Proposals

COMMUNITY SERVICES OVERVIEW

The Governor's Budget proposes \$5.8 billion Total Funds (\$3.4 billion General Fund) for community services. Through the network of 21 Regional Centers (RCs), the Department supports the development and maintenance of services for eligible persons with developmental disabilities who reside in the community. These Centers provide services and support to 290,496 individuals, and the population is expected to grow to 302,419 by the end of Fiscal Year 2016-17.

The Legislative Analyst's Office (LAO) has provided the following charts and figures, which show overall expenditures by the Department in the Community Services Division and illustrate the projected continuation of growth to the community caseload.

The first chart, titled "Proposed RC 2016-17 Funding" breaks down the Category of Expenditure and Funding Source of all funds proposed for the Community Services Division.

Proposed RC 2016–17 Funding

(Dollars in Millions)

	2016–17 Proposed	Percent of Total
By Category of Expenditure		
RC operations	\$663.5	11.5%
RC POS	5,089.4	88.1
Other ^a	21.1	0.4
Total	\$5,774.1	100.0%
By Funding Source		
General Fund ^a	\$3,426.9	59.3%
Medi-Cal reimbursements ^b	2,079.0	36.0
Other ^c	268.2	4.6
Total	\$5,774.1	100.0%

^aEarly Start Program funds allocated to other agencies by the Department of Developmental Services, primarily to local education agencies.

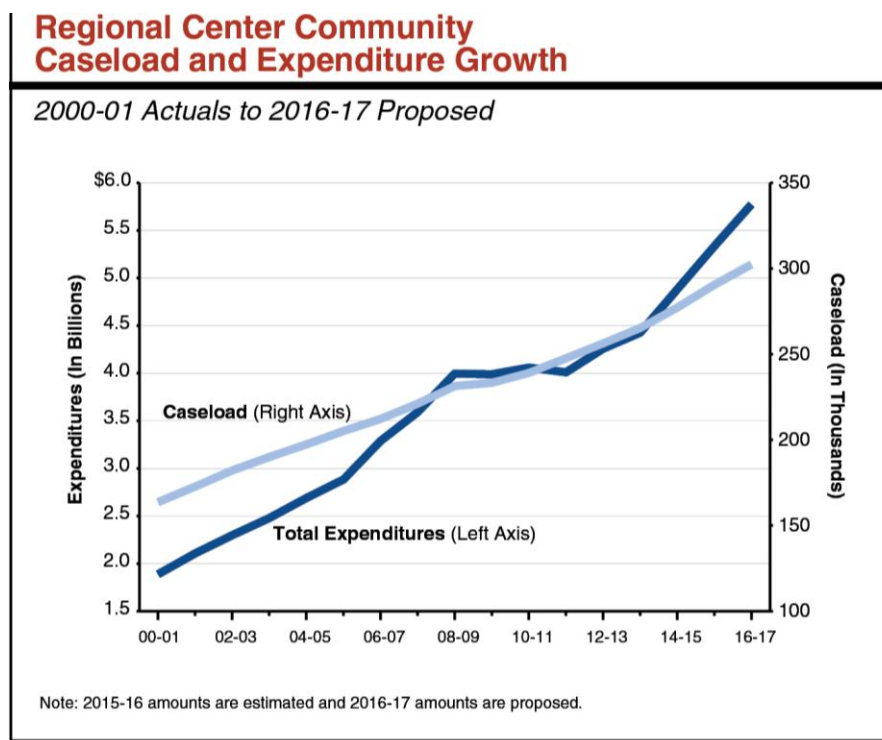
^bThe majority of these reimbursements are for purchase of services (POS) under a federal Home- andCommunity-Based Services waiver.

^cIncludes, but is not limited to, reimbursements for Title XX Block Grant, Mental Health Services Act funds, Federal funds for the Early Start Program, and parental fees.

RC = Regional Center.

Amounts may not add due to rounding.

As mentioned in the Department Overview, the moratorium on referring consumers to the Developmental Centers (DCs), and the more recent proposed closure of the DCs has led to a steady increase to the community services caseload. The second figure titled “Regional Center Community Caseload and Expenditure Growth” depicts caseload and expenditure growth from 2000 to the current year.



The final chart displays the average monthly caseload in the community, as well as the percent increase of number of consumers served over the prior year.

Community Caseload Shows Continued Growth

	Average Monthly Caseload	Increase From Prior Year	
		Number of Consumers	Percent
2007–08	221,069	—	—
2008–09	231,451	10,382	4.7%
2009–10 ^a	233,294	1,843	0.8
2010–11	239,153	5,859	2.5
2011–12	247,674	8,521	3.6
2012–13	256,294	8,620	3.5
2013–14	265,216	8,922	3.5
2014–15 ^a	277,242	12,026	4.5
2015–16 ^b	290,496	13,254	4.8
2016–17 ^b	302,419	11,923	4.1

^aEarly Start Program eligibility tightened in 2009–10 and restored January 1, 2015.

^bAdministration's caseload estimate.

RECENT REFORM AND INVESTMENTS IN COMMUNITY SERVICES

In June 2015, Governor Brown called a special legislative session to address various health and human services restorations and investments as part of a larger discussion regarding the Managed Care Organization Tax. This special session

The graphic below from the LAO outlines the various spending proposals contained in AB2X-1 (Thurmond) and their General Fund impacts. The column on the far right indicates whether or not a spending change is subject to a “fixed appropriation”, which indicates whether or not there is a capped total General Fund amount from year to year.

Enacted Spending Proposal ^a	General Fund Appropriation (in millions)	Fixed Appropriation (Y or N) ^b
Community Services Staff Providing Direct Services to Consumers. <i>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.)</i>	\$169.5	Y
RC Staff Salaries and/or Benefits. <i>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.</i>	29.7	Y
RC Administration. <i>RC operations increase, as allocated by DDS, for administration, including for clients' rights advocates contracts.</i>	1.4	Y
Provider Administration Costs. <i>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.</i>	9.9	Y
5 Percent Rate Increase for Supported Living and Independent Living Services. <i>5 percent increase to rate in effect on June 30, 2016.</i>	18.0	N
5 Percent Rate Increase for In- and Out-of-Home Respite Services. <i>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.</i>	10.0	N
5 Percent Rate Increase for Transportation. <i>5 percent rate increase to rates for transportation services in effect on June 30, 2016.</i>	9.0	N

Competitive Integrated Employment Program. <i>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.</i>	20.0	Y
11.1 Percent Rate Increase for Supported Employment. <i>Provides an 11.1 percent rate increase for supported employment by restoring rates to levels in effect in 2006.</i>	8.5 ^c	N
Resources to Support Bilingual RC Staff, Training, and Education Efforts. <i>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.</i>	11.0	Y
Rate Increases for Certain Intermediate Care Facilities (ICFs). <i>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.</i>	— ^d	— ^d
Exemption From Retroactive Reductions for Distinct Part Skilled Nursing Facilities (DP/SNF). <i>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.</i>	— ^d	— ^d
Total General Fund Appropriation	\$287.0	
<p>^aSpending augmentations effective July 1, 2016, unless otherwise noted.</p> <p>^bIf 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.</p> <p>^cSpending changes also affect the Department of Rehabilitation budget and are not included in appropriation but estimated to be about \$3.5 million General Fund.</p> <p>^dSpending 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.</p> <p>DDS = Department of Developmental Services and RC = Regional Center.</p>		

GOVERNOR'S BUDGET PROPOSALS FOR 2016-17
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- **Caseload and Utilization.** The Governor's budget proposes a \$235 million increase (\$149.2 million GF increase) in regional center OPS and POS as follows:
 - OPS increase of \$22.3 million (\$16.2 million GF)
 - POS increase of \$212.7 million (\$133 million GF)

The major increases in POS expenditures are within the day programs, support services, in-home respite, health care, and miscellaneous budget categories, all of which reflect updated expenditure data and consumer growth.

- **Compliance with New Home and Community Based Services (HCBS) Regulations.** The Governor's budget proposes a \$1.6 million increase (\$0.9 million General Fund increase) in Operations (OPS) to fund an additional 21 Program Evaluator positions within the regional centers to ensure HCBS program settings are integrated into the community by March 2019, as required by the new regulations. In addition, a \$15.0 million increase (\$11.0 million General Fund increase) in Purchase of Services (POS) to fund modifications to some service providers' programs that will be necessary for compliance with HCBS regulations by March 2019, to continue to receive federal HCBS funds.

DDS views the \$15 million as a grant program that providers and Regional Centers can apply to in order to receive additional funds for the purpose of transitioning noncompliant services into compliance with federal mandates.

- **Client Program Coordinators to Improve Caseload Ratios.** The Governor's budget proposes a \$17 million increase (\$13 million General Fund increase) to fund additional regional center Service Coordinator positions to reduce caseload ratios and thereby improve case management functions.
- **Alternative Residential Model (ARM) 4-Bed Rate Model.** The Governor's budget proposes a \$46.0 million increase (\$26.0 million General Fund increase) to fund ARM rates based on a four-resident model for Community Care Facilities vendored to serve four or fewer individuals. There is also trailer bill language related to the implementation of a new rate model for 4-bed facilities.
- **Minimum Wage Increase.** The Governor's budget proposes a \$62.4 million increase (\$35 million General Fund increase) in POS to fund the requirements of Assembly Bill 10 (Chapter 351, Statutes of 2013) that increased the State minimum wage from \$9.00 to \$10.00 effective January 1, 2016.
- **Update on Federal Labor Regulations.** The Governor's budget proposes a \$54.2 million increase (\$29.2 million General Fund increase) in POS to reflect full year implementation of the Fair Labor Standards Act (FLSA) to include home care

workers in overtime compensation.

- **Implementation of Behavioral Health Treatment (BHT) Services by Department of Health Care Services (DHCS).** The Governor’s budget proposes a \$4.5 million decrease (\$2.2 million General Fund decrease) in POS to reflect a reduction in expenditures for the consumers who began receiving BHT services in September 2014 from DHCS as a Medi-Cal benefit per Senate Bill 870 (Chapter 40, Statutes of 2014).
- **Early Start Program Clean-up.** The Proposed Trailer Bill Language related to the Early Start Prevention Program repeals language from 2011 and allows for the continued restoration of the program.
- **Intent Language Related to HCBS.** The Subcommittee will await further language related to compliance with federal Medicaid home and community-based services.

LAO COMMENTS

Compliance with HCBS Regulations. The LAO states that establishing specific RC program staff to evaluate and monitor HCBS compliance is reasonable, but will only be successful with clear direction and guidance from the state. Further, the LAO comments that the parameters by which service providers may apply for and access funding to transform programs to meet the new requirements are unclear and would require significant leadership from DDS for the appropriate, efficient, and cost-effective use of funds in a timely way.

New Client Program Coordinators. The LAO states that improving caseload ratios is likely to improve service quality and cost efficiency but notes that noncompliance with required HCBS waiver caseload ratios is still possible and thus some federal funding may still be at risk. Federal funds could be jeopardized depending on how RCs implement these proposals related to ratio requirements for HCBS consumers.

ARM 4-Bed Rate Model. The LAO provides the following comment, “[The Governor’s proposal] has merit, given legislative and stakeholder concerns about the adequacy of residential capacity and given common service delivery practices to operate homes with four or fewer beds. Compared to a six-bed facility, which often requires that some residents share rooms, facilities with four or fewer placements can generally offer more individual attention, privacy, and choice.” However, the LAO does note concern with the proposed trailer bill language and states that the proposed statutory language goes beyond simply establishing a new rate based on a four-bed model. “Specifically, the language would make changes to when RCs are allowed to approve service-level changes for all Community Care Facilities, and would prohibit any such change that would add to state costs unless the RC demonstrates to DDS that approval is necessary to protect the consumer’s health or safety and DDS grants that approval.”

STAFF COMMENTS

Compliance with HCBS Regulations. The new HCBS requirements will require many services utilized by thousands of consumers to be redesigned in order to meet new standards. In order for this to be successful, further emphasis on transition plans for services that may not be compliant with new regulations is essential. The Department's expectation is that RCs will reach out to providers they do not think are compliant, the provider will submit a proposal to the RC, and then the RC would send the proposal to DDS for review. Also, the program evaluator position requested as part of this proposal will help to do outreach to providers regarding the availability of the grant funds.

The HCBS waiver will be discussed further in the next section of this agenda, however, the Subcommittee may wish to request more detailed policies from the Department regarding plans for transitioning services like sheltered work programs into programs that will meet federal requirements.

New Client Program Coordinators. The Governor's Proposal includes funding for an estimated 200 additional Service Coordinators. During last year's Budget discussions, this Subcommittee noted concern with California's noncompliance with federal caseload ratios. This proposal provides additional funding to the RCs in order for them to assess the need for new coordinators and allows RCs the flexibility to use the positions to their best advantage, with DDS' overall goal being to get closer to CMS ratios. However, this goal is not explicitly stated as part of the proposal, and as such, the Subcommittee may wish to have the Department report back to the Subcommittee annually with the following information:

1. How many additional coordinators have been hired per RC?
2. How have caseloads been impacted as a result of the increased funding for service coordinators?
3. Have RCs utilized the funding in the ways that DDS assumed they would? Do additional parameters need to be set for this funding?

Additionally, it is worth noting that the MCO tax discussion was successful in providing additional funding for retention of current service coordinators, which should be seen as a companion piece to this proposal.

ARM 4-Bed Rate Model. Many 6-Bed ARM facilities have operated under the 6-bed capacity, and thus have operated at a loss. Establishing a 4-Bed rate model will offer those 6-bed facilities that would like to reduce their size to the 4-bed model to have a rate structure already in place. This proposal is also consistent with the federal and state policy trend of providing placements in smaller residential facilities that can provide additional consumer choice and privacy for consumers.

Staff Recommendation: Staff recommends holding these issues open pending May Revision updates.

ISSUE 4: SERVING CONSUMERS IN COMMUNITY**PANEL**

- Jim Knight, Assistant Deputy Director, Community Services Division, Department of Developmental Services
- Marty Omoto, Director, California Disability-Senior Community Action Network
- Judy Mark, Government and Community Relations Chair, Autism Society of Los Angeles
- Evelyn Abouhassan, Senior Legislative Advocate, Disability Rights California
- Meredith Wurden, Fiscal and Policy Analyst, Legislative Analyst's Office
- Carla Castaneda, Finance Budget Analyst, Department of Finance
- Public Comment on Serving Consumers in the Community

HOME AND COMMUNITY-BASED SERVICES

Home and Community-Based Services (HCBS) are long-term services & supports provided in home and community-based settings, as recognized under the federal Medicaid (Medi-Cal) Program. These services can be a combination of standard medical services and non-medical services. Standard services can include, but are not limited to: case management (i.e. supports and service coordination), homemaker, home health aide, personal care, adult day health services, habilitation (both day and residential), and respite care. States can also propose "other" types of services that may assist in diverting and/or transitioning individuals from institutional settings into their homes and community.

New Regulations. In March 2014, CMS updated its regulations and made significant changes to services that qualify for Medicaid reimbursement. The purpose of the rules is to ensure that individuals receive services in settings that are integrated in and support full access to the greater community. This includes opportunities to seek employment and work in competitive and integrated settings, engage in community life, control personal resources, and receive services to the same degree as individuals who do not receive regional center services. It means that settings need to focus on the nature and quality of individual's experiences and not just about the buildings where the services are delivered. Individuals have an active role in the development of their plan, the planning process is person-centered, and the plan reflects the individual's service and supports and what is important to them.

Statewide Transition Plan. On August 14, 2015, DHCS, as the single state agency for the Medi-Cal program, submitted the Statewide Transition Plan for home and

community-based settings to CMS for approval. It covers all existing California programs that are affected by the home and community-based settings requirements, including the HCBS Waiver for Californians with Developmental Disabilities and the DDS 1915(i) State Plan program. New HCBS programs are not covered by the Statewide Transition Plan. New programs, such as the proposed Self-Determination Program Waiver, must be in compliance with the HCBS rules when they are implemented.

HCBS Workgroup. In conjunction with DHCS, the Department of Aging and other departments that have HCBS funded services, DDS is working on updating the Statewide Transition Plan that will document for CMS the steps CA will take to meet the requirements of the HCBS regulations. DDS hosts recurring calls with CMS, beginning March 17th, to assist with adding the required specificity to the plan that will meet CMS' expectations. In particular, CMS is requesting more detail on the process CA will use to assess if current settings are in compliance with the HCBS regulations and what remedial steps will be taken if they aren't.

The DDS HCBS workgroup has been involved in reviewing and providing feedback on what is in the Statewide Transition Plan currently. Additionally, suggestions from this workgroup led to proposals in the current Governor's budget. These include making funding available for service providers in order to make modifications to comply with the HCBS regulations and the proposed trailer bill language that will allow DDS to make timely changes to State requirements in advance of issuing updating regulations. Identifying these proposals in the revised Statewide Transition Plan will be beneficial in showing CMS some of the steps the State is taking to comply with the new regulations.

From stakeholders, one of the overriding questions/concerns is what ultimately will the available service choices be once the transition is complete. There are many varying opinions about some service models (e.g. congregate services, "intentional communities," etc.) and whether or not these 1) meet the HCBS requirements; and 2) will continue to be available services going forward. The implementation of the HCBS regulations provides the opportunity to look critically at these and other questions to determine what service models provide the best opportunity for people to be meaningfully engaged in the community.

SELF-DETERMINATION PROGRAM

On December 31, 2014, DDS submitted an HCBS Waiver application to CMS seeking federal funding for the Self-Determination Program (SDP). Under the authority of Senate Bill (SB) 468 (Chapter 683, Statutes of 2013) and upon CMS approval, DDS will implement the SDP, allowing regional center consumers and their families more freedom, control and responsibility in choosing services and supports to help them meet objectives in their individual program plans. Under the provisions of SB 468, participation will be limited to 2,500 individuals for the first three years of implementation.

After the Waiver application was originally submitted in December 2014, CMS indicated that it must be withdrawn since DDS had not met public participation policies (specifically posting the application prior to submitting). Additionally, CMS was concerned that the application did not adequately address how the program complied with the new regulations concerning HCBS settings. Subsequently, after working with CMS, the application was revised and resubmitted in September 2015. In a letter dated December 11, 2015, CMS asked for more information regarding information in the application. This is part of the typical review process when applications are submitted to CMS.

In general, some themes in CMS' questions relate to:

- How the settings (where services are provided) comply with the HCBS requirements.
- Oversight of providers since regional center vendorization is not required (except for Financial Management Services providers.)
- Clarification of service definitions
- Clarification of measurements DDS will use to report back to CMS regarding how the self-determination program is meeting federal assurances.

DDS hopes to have responses to all questions submitted to CMS by the end of March.

In addition to working through the questions from CMS, in conjunction with the self-determination workgroup DDS is finalizing training materials that will be used for training of regional centers, as required by statute. The Department expects to begin the training in the next few months with participation from workgroup members. Other current activities of the workgroup include identifying suggested qualifications and other requirements for Financial Management Services providers.

While DDS has made a great deal of progress towards implementation, there is notable frustration from Advocates that the program has not moved further along. DDS states that the process for obtaining federal approval typically does not occur quickly under ordinary circumstances, and positions that since self-determination is a new program in California (from CMS' perspective), these are not ordinary circumstances.

ADVOCATES' COMMENTS

The following issues have been raised by Disability Rights California.

Solve The Complexities Created By The New Federal Overtime Requirements.

DRC provides the following comments, "As a result of new federal overtime requirements, personal care attendants are eligible for overtime after 40 hours of work. While we support overtime for these direct care staff, we also know that this change makes it more complicated to provide services to some regional center consumers. For example, we should create a robust OT exception process when a consumer's worker works more than 40 hours per week because the consumer requires 24/7 individualized

support and due to the nature of the consumer's disability it is not possible to hire other staff. We should also ensure that the current state OT provisions which allow a worker to work up to 66 hours are applicable in the regional center system. For example, when a Supported Living Services worker working for one SLS agency is paid both through IHSS and regional center funds or no longer require SLS to use IHSS services, that worker should be eligible to work up to 66 hours regardless of the funding source."

Modify Health and Safety Exception Process. DRC provides the following comments, "Exceptions to rate freezes and median rates are available for people whose service needs necessitate a higher rate. This is possible on an individual basis only by applying for a Health and Safety Waiver. In practice, this is a lengthy process, requiring approval from both the regional center executive director and DDS. This process must move faster. Consideration should also be given to allowing regional centers to approve rate exceptions when exceptional circumstances exist."

Target Increases To Solutions Which Help Address POS Disparities. DRC provides the following comments, "The regional centers continue to report disparities in purchase of services among different ethnic groups. Generally consumers and families who identify as white receive more purchase of service funds (even when the data is adjusted for living arrangement, i.e. living in their own/family home versus out of home). Solutions which also help address service disparities such as targeting some of the service coordinator adjustments toward service coordinators who are bilingual including perhaps a salary differential, reducing caseloads to more effectively serve monolingual staff; and rate differential for providers who have bilingual staff."

STAFF COMMENTS

As federal regulations have changed, so has the importance of compliance with the HCBS waiver. Many services that currently exist within the community are not compliant, and thus will not be eligible for federal funding. The Governor's proposal to provide funding for noncompliant services to begin to transition into compliant services offers a great first step in ensuring that consumers will continue to have access to services necessary for their success in the community.

In many ways, the success of the Self-Determination program is contingent on the ability for services to become compliant with the HCBS waiver. Any services that will be included within Self-Determination need to be in compliance with federal regulations, which puts even more emphasis on getting services transitioned and in compliance as soon as possible.

Staff Recommendation: This item is informational only and does not require action at this time, however the Subcommittee may wish to invest in proposals related to the issues in this section.
