

Date of Hearing: April 26, 2021

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Lisa Calderon, Chair

AB 1345 (Wicks) – As Amended April 14, 2021

SUBJECT: Emergency services: licensed childcare providers

SUMMARY: Requires the Office of Emergency Services (CalOES), by June 1, 2022, to establish best practices regarding the use, by licensed and license-exempt childcare providers, of funds provided to the state by the federal government in response to a disaster or emergency. Specifically, **this bill:**

- 1) Requires, by June 1, 2022, CalOES, in consultation with California Department of Social Services (CDSS) and childcare stakeholders, including, but not limited to, individual childcare providers, county childcare resource and referral agencies, childcare centers' and childcare homes' representatives, childcare center associations, and family childcare associations, to establish best practices regarding the use, by licensed and license-exempt childcare providers, of funds provided to the state by the federal government, including, but not limited to, Federal Emergency Management Agency (FEMA) funds in response to a disaster or emergency, including but not limited to COVID-19 after the Governor has declared a disaster, state of emergency, or statewide state of emergency.
- 2) Requires the best practices to specify, subject to any limitations imposed on the use of funds by the State, FEMA or federal law, how funds provided by the State, federal government or FEMA will be allocated to licensed and license-exempt childcare providers, the timeline at which the funds will be distributed to licensed and license-exempt childcare providers, and any use for which the funds may be used, including for staying open or for reopening a childcare program during or after the declaration, to the extent permissible under federal and state law.

EXISTING LAW:

- 1) Empowers the Governor to proclaim a state of emergency in an area affected or likely to be affected when:
 - a) The Governor finds that there is the existence of conditions of disaster or extreme peril to the safety of persons and property within the state which, due to their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single jurisdiction and require the combined forces of a mutual aid region or regions to combat, as specified; and,
 - b) Either:
 - i) The Governor is requested to do so by a mayor or chief executive or chairperson of the board of supervisors or county administrative officer, as applicable; or,
 - ii) The Governor finds that local authority is inadequate to cope with the emergency. (Government Code Section [GOV] 8625)

- 2) Authorizes the President of the United States, under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, to provide financial assistance under this section to an individual or household in the State who is adversely affected by a major disaster to meet disaster-related medical, dental, child care, and funeral expenses. (42 United States Code Section [USC] 5174(e)(1))
- 3) Authorizes the President to provide federal assistance when the magnitude of an incident or threatened incident exceeds the affected state, local, territorial, and tribal government capabilities to respond or recover. (Stafford Act, 42 USC 5121)
- 4) Establishes the “Child Care and Development Services Act” to provide child care and development services as part of a coordinated, comprehensive, and cost-effective system serving children from birth to 13 years old and their parents, and including a full range of supervision, health, and support services through full- and part-time programs. (Education Code Section 8200 *et seq.*)
- 5) Establishes the “Coronavirus Aid, Relief, and Economic Security (CARES) Act” to provide a supplemental payment to address the impact of the COVID-19 pandemic on childcare providers and the families they serve, including to prevent, prepare for, and respond to the pandemic emergency, to provide assistance to childcare providers in the case of decreased enrollment or closures, and to provide childcare assistance to essential workers during the response to the pandemic. (Public Law 116-136)
- 6) Establishes the “Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act of 2021” to appropriate \$10 billion to prevent, prepare for, and respond to the COVID-19 pandemic. The funding is to be used to supplement State, Territory, and Tribal general revenue funds for child care assistance for low-income families within the United States and assistance to child care providers. (Public Law 116-260)

FISCAL EFFECT: Unknown

COMMENTS:

Robert T. Stafford Disaster Relief and Emergency Assistance Act: When a state, territorial, or tribal government determines an incident has exceeded their capabilities to respond, the Governor or Tribal Chief Executive may request a declaration of “major disaster” or “emergency” from the President through FEMA regional office. The Governor or Tribal Chief Executive must make the request within 30 days of the incident. Following a Stafford Act declaration, the President may authorize assistance to a state, local, territorial, or tribal government; certain types of private nonprofit organizations; or individuals and households. FEMA then provides assistance to individuals and households through the Individual Assistance program, which includes Mass Care and Emergency Assistance, the Crisis Counseling Assistance and Training Program, Disaster Unemployment Assistance, Disaster Legal Services, Disaster Case Management, and the Individuals and Households Program.

COVID-19: effects and response: In 2020 and continuing into 2021, across the state, throughout the nation, and around the world, the global COVID-19 pandemic has had drastic effects on public health and the economy. On March 4, 2020, in response to the global COVID-19 outbreak, Governor Newsom declared a statewide state of emergency. On March 13, 2020, President Trump declared an emergency under the Stafford Act, in response to the COVID-19

pandemic. The declaration authorized assistance to all U.S. states, territories, tribes, and the District of Columbia. Subsequently, the President approved major disaster declaration requests under the Stafford Act for all 50 states, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands

On April 4, 2020, the Governor signed Executive Order N-45-20 enacted in SB 820 (Committee on Budget and Fiscal Review), Chapter 110, Statutes of 2020, to facilitate child care for children of essential critical infrastructure workers by waiving certain programmatic and administrative requirements in response to the COVID-19 pandemic. The Executive Order also required the California Department of Education (CDE) and CDSS to jointly develop and issue guidance on how the essential worker prioritization will be implemented and how child care programs and providers can safely provide care. On April 8, 2020, CDE released guidelines with Management Bulletin 20-06, which provided guidance to state-subsidized early learning and care programs that will continue to provide services to currently-enrolled families or begin to provide “Emergency Childcare” for essential workers and other vulnerable populations.

SB 89 (Committee on Budget and Fiscal Review), Chapter 2, Statutes of 2020, appropriated \$500 million to be used for any purpose related to the March 4, 2020 emergency declaration. Of that appropriation, \$50 million was provided to Resource and Referral (R&R) programs to support Cleaning and Supplies for Childcare Providers (CSCP) on April 29, 2020. The R&R programs, in turn, allocated CSCP funds to open or soon-to-be open providers operating childcare or early learning and care programs for children of essential workers, at-risk populations, and children with disabilities or special health care needs where the child’s individualized education plan or individualized family service plan includes early learning and care services. The CSCP funding was available for both licensed and license-exempt center and home-based providers who are non-local education agencies (e.g. community-based organizations, city or county, or private) and who provide early learning and care services to families receiving subsidies or private paying families. Awards for CSCP funds were made on a first-come, first-serve basis, and allocated based on the capacity of the childcare provider and a per-child funding amount of \$65.89, and had to be spent by June 30, 2020. Examples of allowable expenses include cleansers and sanitizers; masks, gloves, and other personal protective equipment; labor costs associated with additional time for cleaning or cleaning services; and, supplies including instructional materials necessary to implement social distancing and other reasonable health and safety costs associated with responding to state and local health official COVID-19 guidance.

The federal CARES Act, signed by President Trump on March 27, 2020, allocated \$3.5 billion across the nation through the Child Care and Development Block Grant (CCDBG), for immediate assistance to childcare providers to prevent them from going out of business, and to otherwise support child care for families, including for healthcare workers, first responders, and others playing critical roles during this crisis. California received \$350 million in supplemental CCDBG funding through the CARES Act.

Public Law 116-260, named the CRRSA Act of 2021 appropriated \$10 billion through the CCDBG to prevent, prepare for, and respond to the COVID-19 pandemic. The funding is to be used to supplement State, Territory, and Tribal general revenue funds for child care assistance for low-income families within the United States and assistance to child care providers. CRRSA also provided some additional flexibilities for the use of those funds. The CRRSA funds may be used for costs of providing relief from copayments and tuition payments for families and for

paying that portion of the child care provider's cost ordinarily paid through family copayments. These funds provide continued payments and assistance to child care providers in the case of decreased enrollment or closures related to coronavirus and assure they are able to remain open or reopen as appropriate and applicable. California received \$964 million in supplemental CCDBG funding from the CRRSA.

CalOES Planning and Preparedness Branch: The CalOES Planning and Preparedness Branch (Branch) develops and maintains state-level emergency plans and guidance that engage the whole community by using an all-hazards planning process that represents the actual stakeholders from the community, both local and state government leaders, nongovernmental organizations, and the private sector. The Branch staff assists local governments and other state agencies in developing their own emergency preparedness and response plans. Within the Branch, the Community Planning Unit (CPU) has the responsibility for providing support in the creation, implementation, and exercising of local community emergency plans. The CPU assists communities in identifying best practices and lessons learned in local community emergency planning.

The CPU is developing the Whole Community Planning Guidance (WCPG)—a system which provides guidance and best practices for emergency planning throughout the State of California. The WCPG is intended for use by Operational Area emergency planners; however, it can be used by emergency planners at all levels, including cities, special districts, non-profit organizations, tribal nations, and the private sector. The WCPG is being developed to address a gap in standardized emergency planning, as well as a need to share best practices, lessons learned, and overall guidance for emergency planning.

Need for this bill: According to the author, “As a working parent with young children, I ardently depend on child care. The combined disasters of wildfires and COVID-19 ravaged California communities, and the lack of resources, funding, and guidance to child care providers created unsafe and inadequate environments for child care providers and the very children tasked to their care.

“In the event of an emergency, child care providers should be granted funds and have clear state guidance to easily and quickly continue their child care duties. This is a common sense bill that would clarify guidance and make funds easily and quickly available for child care providers in the state to have the resources and support they need to ensure that California's children are safe and cared for in the event of an emergency. This past year proved that child care providers and their staff are essential, and California must start treating them as such with adequate guidance and financial FEMA support in times of disaster and emergency.”

Double referral: This bill passed out of the Assembly Emergency Management Committee on April 19, 2021, with a 6-0 vote.

PRIOR AND RELATED LEGISLATION:

AB 82 (Ting), Chapter 6, Statutes of 2021, amongst other things, appropriated the sum of \$402, million in specified federal funding to provide subsidized childcare and preschool providers with COVID-19 pandemic-related assistance, and would allocate the money as specified, including \$244 million to provide a flat-rate one-time stipend amount of \$525 per child enrolled in a subsidized childcare or a state preschool program and \$80 million to provide additional emergency vouchers for specified children through June 30, 2022.

SB 89 (Committee on Budget and Fiscal Review), Chapter 2, Statutes of 2020, appropriated \$500 million from the General Fund to be used for any purpose related to the Governor's March 4, 2020, proclamation of a state of emergency. SB 89 further authorized additional appropriations in increments of \$50 million, up to a total appropriation of \$1 billion.

SB 820 (Committee on Budget and Fiscal Review), Chapter 110, Statutes of 2020, amongst other things, waived, from September 1, 2020, to June 30, 2021, family fees for specified subsidized early learning and care programs for families who are not receiving in-person services or who are sheltering-in-place due to COVID-19.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

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