

Date of Hearing: March 26, 2019

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Eloise Gómez Reyes, Chair

AB 192 (Mathis) – As Amended March 20, 2019

SUBJECT: California Integrated Community Living Program

SUMMARY: Creates the “California Integrated Community Living Program” (Program) to provide permanent supportive housing options for regional center clients, to be funded using moneys from the lease of or other revenue generating agreement for any state developmental center property. Specifically, **this bill:**

- 1) Establishes the California Integrated Community Living Program within the Department of Developmental Services (DDS) to provide deferred payment loans to finance the capital costs of permanent supportive housing for the target population, as specified.
- 2) Defines “target population” as individuals who are regional center clients.
- 3) Creates the “Integrated Community Living Program Fund” (Fund) within the State Treasury, and continuously appropriates moneys in the fund to DDS, without regard to fiscal years, to be used for certain purposes described by the provisions of this bill, as specified, and further, requires certain moneys be deposited into the fund, including:
 - a) All moneys received by DDS through the sale, lease, or other revenue-generating agreement for state developmental center property, with the exception of revenues associated with Harbor Village or Shannon’s Mountain projects;
 - b) Moneys appropriated by the Legislature for purposes related to the provisions of this bill; and,
 - c) Federal or state grants, or private donations made for purposes related to the provisions of this bill.
- 4) Requires DDS and the Department of Housing and Community Development (HCD) to enter into an interagency agreement for purposes of administering the Fund.
- 5) Prohibits moneys in the Fund from being used to supplant or backfill any existing program budget within DDS or HCD.
- 6) Prohibits any amount more than 5% of moneys in the Fund from being used by DDS and HCD to cover the costs of administering the provisions of this bill.
- 7) Requires DDS to convene an advisory committee consisting of stakeholders and interest groups to advise and assist in establishing funding priorities for the Program, with an emphasis on affordable housing, and, further, requires the committee to convene every five years to review funding priorities.
- 8) Requires DDS, in consultation with HCD, to develop and administer a competitive application process to award funding for loans pursuant to the provisions of this bill.

- 9) Requires that, in addition to capital costs, funding be available for operating and rent subsidies to achieve deeper affordability for the target population.
- 10) Requires, in order to be eligible for funding, a project to integrate the target population with the general public.
- 11) Instructs DDS, in consultation with HCD, to distribute funds in a way that maximizes access to low-income housing tax credit program projects for the target population, and that also incentivizes the development of creative permanent supportive housing projects, as specified.
- 12) Requires DDS to evaluate applications using certain criteria, including, but not limited to, the following:
 - a) The current supply and demand of affordable community housing opportunities for people with intellectual and developmental disabilities in the region;
 - b) The extent to which supported living service and other community-based service providers are available to serve the proposed project location to support successful housing placements;
 - c) The extent to which funds are leveraged for capital costs;
 - d) The extent to which projects achieve deeper affordability through the use of non-state project-based rental assistance, operating subsidies, or other funding; and,
 - e) Project readiness.
- 13) Instructs DDS, in consultation with HCD, to adopt guidelines establishing income and rent standards for potential residents of properties funded through the provisions of this bill, and, further, requires those standards to include standards based solely on Supplemental Security Income (SSI) income, as defined in current federal law.
- 14) Requires DDS and HCD to, in consultation with stakeholders, develop community integration criteria to set the maximum percentage of apartment units reserved for persons with intellectual or developmental disabilities within low-income housing tax credit program projects, and to stipulate community integration standards for small projects.

EXISTING LAW:

- 1) Establishes the Lanterman Developmental Disabilities Services Act, which declares California's responsibility for providing an array of services and supports to meet the needs of each person with developmental disabilities in the least restrictive environment, regardless of age or degree of disability, and to support their integration into the mainstream life of the community. (Welfare and Institutions Code [WIC] Section 4500 *et seq.*)
- 2) Establishes the jurisdiction of DDS over state developmental centers, including Sonoma, Fairview and Porterville Developmental Centers (DCs), as specified. (WIC 4440 *et seq.*)
- 3) Requires DDS to submit a detailed plan to the Legislature when it proposes closure of a DC no later than April 1st immediately prior to the fiscal year in which the plan is to be

implemented, and as a part of the Governor's proposed budget and further, requires the Legislature to approve that plan prior to its implementation. (WIC 4474.1. (a))

- 4) Establishes a system of nonprofit regional centers to provide fixed points of contact in the community for all persons with developmental disabilities and their families, to coordinate services and supports best suited to them throughout their lifetime. (WIC 4620)
- 5) Authorizes the Department of General Services (DGS), with the consent of DDS, to permit the development of affordable housing for eligible individuals on the grounds of Fairview DC, as specified. (Government Code [GOV] Section 14670.35)
- 6) Creates the DDS Trust Fund, into which proceeds received from affordable housing projects developed on the grounds of Fairview DC, as specified, may be deposited and further, specifies that moneys in this trust fund shall be used, upon appropriation by the Legislature, to provide housing and transitional services for people with developmental disabilities and that any funds not needed to do so shall be transferred to the General Fund. (GOV 14670.36 (c))
- 7) Defines "surplus state real property" as real property declared surplus by the Legislature and directed to be disposed of by DGS, and, further, allows DGS to dispose of surplus state real property by sale, lease, exchange, a sale combined with an exchange, or other manner of disposition of a property, as authorized by the Legislature, upon any terms and conditions and subject to any reservations and exceptions the department deems to be in the best interests of the state. (GOV 11011.1 (a) and (b)(1))
- 8) States Legislative intent that priority be given, as specified, to the disposal of surplus state real property to housing for persons and families of low or moderate income, where land is suitable for housing and there is a need for housing in the community. (GOV 11011.1 (b)(2))
- 9) Establishes in federal law the Supplemental Security Income for the Aged, Blind, and Disabled (SSI) Program to provide cash assistance to meet the basic needs of aged and blind individuals and individuals with disabilities. (42 United States Code 1381-1383(f))
- 10) Establishes the State Supplementary Program for Aged, Blind and Disabled (SSP), which is intended to supplement SSI and provide persons whose need results from age, blindness or disability with assistance and services that help them meet basic needs and maintain or increase independence. (WIC 12000 *et seq.*)
- 11) Provides that eligibility requirements for SSP match federal SSI criteria, and requires a minimum level of SSP benefits to be provided in order to maintain federal Medicaid funding, as specified. (WIC 12000 *et seq.*)

FISCAL EFFECT: Unknown

COMMENTS:

Developmental Services: The Lanterman Developmental Disabilities Act (Lanterman Act), adopted in 1977, established that individuals with developmental disabilities and their families have the right to receive services and supports necessary to live independently in the community. The Lanterman Act outlines the rights of individuals and their families, what services are

available to them, and how regional centers and service providers may best serve these individuals. The term “developmental disability” is defined as a disability that presents before an individual reaches 18 years of age, is expected to continue indefinitely, and is a significant disability for that individual; such disabilities include epilepsy, cerebral palsy, and autism spectrum disorder, among others.

Additionally, part of the Lanterman Act’s legacy is the creation of California’s 21 regional centers, which are tasked with providing information to, and helping coordinate services and supports for, individuals with developmental disabilities and their families. It is important to note that regional centers do not directly provide services to individuals, but, rather, work with service providers in the community to directly provide services to consumers in order to facilitate greater independence for individuals with developmental disabilities. Such services include residential placements, supported living services, day treatment programs, work support programs, transportation, respite services, and various therapeutic activities, among others. Currently, regional centers serve approximately 330,000 consumers.

The State of California also operates two developmental centers – and one state-operated, specialized community facility – which provide 24-hour habilitation and medical and social treatment services. As of December 31, 2018, the number of consumers placed in these settings was 400; this population is broken out as follows across the three settings:

Fairview Developmental Center:	91
Porterville Developmental Center:	256
Canyon Springs Community Facility:	48

It should also be noted that five individuals currently reside in the Stabilization, Training, Assistance and Reintegration (STAR) facility on the Sonoma Developmental Center property, which provides short-term stabilization for individuals in a home-like setting with the goal of preparing them for reintegration into the community.

Individuals with developmental disabilities receive services that are outlined in an Individualized Program Plan (IPP), which is based on the individual needs and choices of a consumer. The IPP, which is developed in consultation with a team that often includes the consumer, their legally authorized representative, and one or more regional center representatives, seeks to maximize opportunities for each consumer to receive individualized services that align with their personal goals and interests and that facilitate a consumer’s ability to live as independently as possible in the community.

Developmental Center (DC) closures: In 2012, AB 1472 (Assembly Committee on Budget), Chapter 25, Statutes of 2012, placed a moratorium on admissions to DCs, with the exception of individuals in an acute crisis needing short-term stabilization, and individuals involved in the justice system. This moratorium was in line with national trends that favored deinstitutionalization of individuals with developmental disabilities and a greater emphasis on placing individuals in the community, where they can receive individualized services and supports that align with their personal goals and wishes.

In May of 2015, in recognition of these national trends towards community-based services, the aging infrastructure of DCs, the moratorium on admissions and decline in DC population, and a loss of federal funding, Governor Brown’s administration announced plans to close California’s

remaining developmental centers, with the exception of a smaller facility at Canyon Springs Community Facility and the secure treatment program at Porterville DC.

Sonoma Developmental Center, with the exception of the STAR facility, formally closed on December 31, 2018; the remaining DS are slated to close by the end of 2021.

DDS is overseeing efforts to move DC residents into placements within the community that meet the intense needs of these consumers. The movement process includes intense coordination with a resident's family members, regional center partners, advocates, and staff to identify the resident's goals and objectives, and to discern how those goals and objects can best be met. The process also includes evaluation of potential living options and, if necessary, the acquisition and preparation of a home that will enable to individual to live independently while also receiving necessary supports and services from caregivers.

Shannon's Mountain and Harbor Village: Harbor Village is a 564- unit mixed-income housing complex that is currently located on Fairview DC property. The village is slated to soon include another 332-unit complex called Shannon's Mountain, which is required to guarantee at least 20% of its units for individual's with developmental disabilities. Approximately 30% of the units in the Harbor Village development are set aside for the same purpose. In 1981, DGS and DDS entered into a long-term ground lease with a private developer, and has resulted in surplus rental proceeds going, in part, to DDS for purposes of modifying and renovating units and to subsidize the rents of DDS consumers residing at Harbor Village. Over time the lease has been amended, and in the early 2000s the lease was amended to stipulate that surplus rental proceeds would be split evenly between the developer and DDS, up to a \$21.2 million cumulative total. DDS expects cumulative surplus rental proceeds to reach the cumulative \$21.2 million cap in 2019-20 or 2020-21, upon which 100% of surplus revenues will flow to DDS, the total of which is estimated to be about \$1.9 million annually. Current law requires all proceeds from the project to be deposited in the Department of Developmental Services Trust Fund, which, upon appropriation by the Legislature, are required to be used to provide housing and transitional services for individuals with developmental disabilities. The housing models at Harbor Village and Shannon's Mountain provide one example of potential future uses for DC properties; namely, leasing a portion of the DC property to private entities in order to provide an ongoing source of revenue for purposes of providing affordable housing to individuals with developmental disabilities.

Legislative Analyst's Office (LAO) report on potential savings from DC closures: In January 2018, the LAO released a report entitled "Sequestering Savings From the Closure of the Developmental Centers" pursuant to requirements of the Supplemental Report of the 2017-19 Budget Act. The report estimated that, once DC closure activity is complete, the state will save about \$100 million annually, which was calculated by subtracting the cost of serving DC residents in the community (approximately \$75 million) and the provision of community-based safety net services (approximately \$25 million), from the total funds the state will no longer pay once the DCs are closed (approximately \$200 million). The report states that the \$100 million in estimated savings could vary significantly depending on the needs of the former DC residents and the associated costs of providing those services, and when taking into account that the estimated savings does not include the significant one-time costs to develop community-based safety net services and housing and programs for DC residents who move to the community in the intervening years between 2017-18 and completion of closures. The report discusses the

potential savings from DC closures that would result should the Legislature decide to sell or lease DC properties, and states,

“Each of the closure DCs has unique characteristics that will affect the state’s ability to generate revenues from the sale or leasing of properties. Sonoma DC and Fairview DC present the most fertile opportunities, but developing on these properties would require close collaboration with local governments. Developing mixed-income housing through a state lease would also require careful consideration of how DDS consumers would be integrated into the community.”

Low-Income Housing Tax Credit program: Created in 1986 to provide incentives for developers and corporate investors to invest in the development, acquisition, and rehabilitation of affordable housing projects, the federal Low-Income Housing Tax Credit Program is an indirect federal subsidy that finances low-income housing and awards credits to developers based on a competitive application process. A 2011 report by the Corporation for Supportive Housing states,

“The federal tax program includes two types of credits, 9% and 4%, related to the percentage of a project’s ‘qualified basis’ that the investing taxpayer can deduct from annual federal tax liability over 10 years. The California Tax Credit Allocation Committee (TCAC) awards credits on a competitive basis. Nine percent credits are extremely competitive. Rents on tax credit units cannot exceed 30% of a tenant’s income and project sponsors must target low-income households. TCAC requires the project sponsor to commit that the project will remain affordable for 55 years. Applicants must also show leveraging of other public and private funds, experience developing housing affordable to low-income Californians, and a readiness to process with construction to be eligible for receiving credits.”

A March 2014 publication by the Office of the Comptroller of the Currency stated that “the program is an important resource in the development of affordable rental housing. [Since the program was first authorized], more than 2.4 million affordable rental housing units have been developed using the tax credits.”

Department of General Services (DGS): surplus state real property process: Current law defines “surplus state real property” as real property declared surplus by the Legislature and directed to be disposed of by DGS, and, further, authorizes DGS to dispose of surplus state real property by sale, lease, exchange, sale combined with an exchange, or other manner of disposition of property, as authorized by the Legislature. Current law also states Legislative intent that priority be given to the disposal of surplus state real property to housing for persons and families of low- or moderate-income, where land is suitable for housing and there is a need for housing in the community. The process by which surplus properties are disposed of consists of the following steps:

- 1) Determination of whether there is another state use for the property. If so, DGS may transfer the jurisdiction of the property to another department.
- 2) Inclusion in the annual omnibus surplus bill, if it determined that there is no state use for the property, which, upon enactment, allows the Director of DGS to dispose of the property.

- 3) Posting of the property on DGS' surplus property Internet webpage, and providing local government agencies and affordable housing sponsors 90 days to notify DGS of their interest in the property.
- 4) Allow for affordable housing sponsors, if there is no local agency interest, to acquire the property for development of low- and moderate-income housing.

Local agencies and affordable housing sponsors are required to execute a purchase and sale agreement within 60 days of receiving notice from DGS that they have been selected to receive the property, and must close escrow within 60 days. If a property is not acquired by an affordable housing sponsor or by a local agency, the property is then offered for sale on the open market pursuant to a public bidding process.

In the October 2015 Sonoma DC Closure Plan submitted to the Legislature, it was decided that the typical surplus property process would not be used to determine the disposition of the Sonoma DC property. Instead, the plan stated that DDS and DGS would continue to work with the local community to identify the best use of the property once closure was complete, and would take into account such factors as: the ongoing need for services by Sonoma DC residents and the developmental disabilities communities writ large; the limitations of the infrastructure and buildings on the property; and the location and accessibility of services, among other considerations. The surplus property process will, however, be used to determine the disposition of property at the Fairview and Porterville DCs, as was outlined in the April 1, 2016, Closure Plan.

Need for this bill: California currently faces a lack of affordable housing and, as a result, has seen an influx in individuals facing homelessness. Approximately one-third of renters in the state pay more than 50% of their income toward rent, and California accounts for 24% of the nation's homeless population, according to the U.S. Department of Housing and Urban Development (HUD). For individuals with disabilities, access to stable, affordable housing presents a significant barrier to living independently in the community. And while there have been multiple efforts among stakeholders to facilitate opportunities for competitive, integrated employment for individuals with developmental disabilities, many of those individuals do not earn a living wage, which exacerbates difficulty in obtaining affordable housing, and further highlights the need for specialized, dedicated housing for this community. The provisions of this bill seek to create a program within DDS as a fund into which potential revenue generated by sale or lease of DC closures can be deposited, to fund housing projects that build stable, affordable housing for individuals with developmental disabilities.

According to the author, "Under existing law, the state is responsible for establishing sufficient numbers and types of living arrangements in communities to meet the needs of people with disabilities. Throughout the state, however, community providers are reporting the near impossibility of securing housing for clients, as well as the devastating stories of individuals who have already lost housing is due to price increases. These people deserve to have the option of independent and affordable housing. We must ensure that the funding currently provided to our Intellectual/Developmental Disabilities (I/DD) community remains with the clients, rather than reverting to the General Fund. As such, we should capture any cost savings from the closure, as well as from the sale or lease of the property, and use that money to fund integrated and affordable housing developments for the I/DD community."

Staff comments: The overarching goal of this bill is both laudable and timely given California's ongoing struggle to provide affordable housing to its residents. The provisions of this bill seek to alleviate the housing crisis for individuals with developmental disabilities by requiring DDS to create the California Integrated Community Living Program into which funds generated from the sale or lease of DC properties may be deposited and used to fund housing projects dedicated to affordable housing for individuals with developmental disabilities.

While this is a worthy goal, the bill, as it is currently written, fails to take into account both the ongoing conversations that are taking place regarding the disposition of the Sonoma DC property, and the role of DGS, which, as the state's real estate asset manager, is ultimately responsible for determining the disposition of these properties through the existing surplus state real property process. The closure plan for Sonoma DC submitted by DDS on October 1, 2015, stated that official responsibility for the Sonoma property will transfer from DDS to DGS on June 30, 2019, at which point DGS may determine further disposition of the property. In August 2018, DGS released its study entitled "Sonoma Developmental Center Existing Conditions Assessment," in which it discussed the myriad factors that must be considered as the state determines the future of the Sonoma DC property. These factors include, but are not limited to: the voice of the surrounding community, considerations related to land, water, ecology, and wildlife conservation, and the existing state of the aged buildings and infrastructure.

These factors, in addition to location, property value, and competing investment priorities of the state, must also be taken into account when determining the future of the Fairview and Porterville DC properties. (Additionally, it must be noted that only a portion of the Porterville DC will close; the Secure Treatment Program will continue to operate. The Secure Treatment Program serves individuals with intellectual disabilities who have come into contact with the legal system and have been determined to be a danger to themselves or others, and/or incompetent to stand trial, and have been found by a court to require treatment a secure area.) However, the provisions of this bill fail to take into account these factors, and instead give precedence to one of the many potential options for the use of DC properties. The provisions of the bill are also silent on the role of DGS, and seem to bypass the authority of DGS as they pertain to the evaluation and disposition of DC property.

In addition to this, as was stated in this committee's analysis of AB 1990 (Mathis) from last year, a bill which was substantially similar to this bill, HCD administers multiple projects that may coincide with, serve as a model for, or absorb the program that the provisions of this bill seek to create. One such example includes the HCD-administered Multifamily Housing Program – Supportive Housing Program, which provides deferred-payment, 55-year loans for construction and rehabilitation of supportive housing, and which may subsume or absorb the program created by the provisions of this bill. The provisions of this bill also do not take into account potential redundancies and inefficiencies that may occur as a result of the creation of a program, the funds for which are neither currently available, nor ensured. In consideration of these concerns, ***should this bill move forward, the author may wish to consider whether the provisions of this bill acknowledge, and adequately consider, the role, existing processes, and factors enumerated by DGS when deciding the ultimate disposition of DC property. The author may also wish to consider whether the creation of an additional program is redundant of existing efforts and whether bolstering existing programs aimed at providing affordable housing to low-income individuals is a more appropriate use of state resources and, ultimately, better for regional center consumers.***

PRIOR LEGISLATION:

AB 1990 (Mathis) of 2018 was substantially similar to this bill and would have required DDS to create the California Integrated Community Living Program to provide permanent supportive housing options for regional center clients, to be funded using moneys from the lease of or other revenue generating agreement for Fairview DC and the General Treatment Area of Porterville DC. AB 1990 was held on the Assembly Appropriations Committee suspense file.

ACR 77 (Lackey) of 2017 would have declared Legislative intent regarding, support for, and encouragement of using proceeds and resources resulting from the closure of developmental centers to provide community services to individuals with developmental disabilities. ACR 77 was held in the Senate Rules Committee.

ABX2 1 (Thurmond), Chapter 3, Statutes of 2016, provided additional state support for developmental services which, among other things, implemented targeted rate increases for the community-based developmental services system.

SB 82 (Senate Committee on Budget), Chapter 23, Statutes of 2015, was the 2015-16 Developmental Services Trailer Bill which, among other things, clarified the Legislature's intent to utilize General Fund savings from the developmental center closures to provide enhancements for services in the community.

AB 1472 (Assembly Committee on Budget), Chapter 25, Statutes of 2012, was the 2012-13 Developmental Services Trailer Bill which, among other things, imposed a moratorium on developmental center admissions, except in instances where an individual was involved in the criminal justice system, was in an acute crisis and in need of short-term stabilization, or was released on provisional placement with an automatic right of return.

REGISTERED SUPPORT / OPPOSITION:

Support

Association of Regional Center Agencies
State Council on Developmental Disabilities

Opposition

None on file

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