



County of Los Angeles CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA
Chief Executive Officer

December 10, 2010

To: Mayor Michael D. Antonovich
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Zev Yaroslavsky
Supervisor Don Knabe

From: William T Fujioka
Chief Executive Officer

Board of Supervisors
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REPORT ON THE FISCAL IMPACT OF STATE BUDGET ACTIONS RELATED TO THE ASSEMBLY BILL (AB) 3632 PROGRAM FOR SPECIAL EDUCATION PUPILS (ITEM NO. 70 AGENDA OF DECEMBER 14, 2010)

As previously reported to your Board on October 8, 2010, the Governor signed the 2010-11 State Budget, with a number of line item vetoes, including the elimination of State funding for the Assembly Bill (AB) 3632 program, effective July 1, 2010. In addition, the Governor suspended the AB 3632 mandate on counties to provide AB 3632 services, effective the date on which he signed the State Budget.

This memorandum provides the projected fiscal impact of the State Budget actions, and the recommendation to proceed with the use of a portion of net County cost (NCC) funding that is already approved in the Department of Children and Family Services (DCFS) 2010-11 Final Budget for AB 3632 specialized residential placements, pending the outcome of efforts to restore State funding for this program or obtain funding from school districts for services provided on behalf of their students.

Background

Special education students who require mental health services in order to benefit from their education are entitled to mental health services as part of their federal right to a free and appropriate public education. Prior to 1984, California's school districts were responsible for providing all special education services to children, including mental health services.

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The AB 3632 statutes, enacted in 1984, transferred responsibility for providing mental health services to special education students from school districts to county mental health departments. AB 3632 mental health services include specialized residential placements for students who require that level of care.

Fiscal Impact of State Budget Action

The funding for AB 3632 mental health services is reflected in the Department of Mental Health (DMH) 2010-11 Final Budget, and the funding for room and board costs for AB 3632 specialized residential placements is reflected in the DCFS 2010-11 Final Budget. The departments' respective 2010-11 budgets for the AB 3632 program are shown in the Attachment.

The immediate fiscal impact of the Governor's veto was to eliminate AB 3632 State funding of \$17.5 million for DMH and \$19.3 million in State Seriously Emotionally Disturbed (SED) Assistance Payment funding for DCFS. Also jeopardized by the Governor's suspension of the mandate are State payments for Senate Bill (SB) 90 claims, for the departments' AB 3632 program costs that exceed State funding, for the period after the mandate was suspended.

Other funding sources remain available in the departments' budgets after the Governor's veto, including federal Individuals with Disabilities Education Act (IDEA) funding in the DMH budget, and State Realignment Sales Tax revenue and NCC for DCFS. The NCC in the DCFS budget is the local matching funds required to receive State SED Assistance Payment funds. Since the State has eliminated its funds, the use by DCFS of the local matching funds is a policy matter for your Board.

Impact on Program Services to AB 3632 Eligible Students

Based on estimated costs and remaining revenues, the projection is that DMH and DCFS can continue to provide AB 3632 mental health and specialized residential placements to sometime during January 2011, based on estimated monthly costs for each department and the use of budgeted IDEA, Realignment Sales Tax and Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Medi-Cal funds. This also reflects the plan to fully claim SB 90 revenue for DMH and DCFS program costs incurred prior to the mandate suspension.

If your Board were to authorize DCFS to use a portion of the NCC already budgeted for the program in order to continue services, DMH and DCFS could continue providing services through at least the end of January 2011.

The use of the NCC would allow additional time for the County to support efforts in Sacramento to restore State funding for this program and to continue discussions with local school districts to seek funding from them for services to their students. The County's position is that mental health services are once again the responsibility of school districts, with suspension of the AB 3632 mandate on counties. It is expected that the efforts to restore State funding will be pursued in Sacramento during January 2011.

Annually, the AB 3632 program serves approximately 4,000 children in 81 school districts, as well as about 570 children in residential treatment programs. Use of the NCC would avoid disruption in services to these students if these efforts are successful. If they are not successful, this will allow for appropriate notification to the children and their parents to discuss transition plans, and to the service providers whose contracts would be reduced or terminated. In conjunction with this Office and County Counsel, the departments plan to complete a transition plan and discuss with all impacted stakeholders, including service providers, and other parties, including affected school districts, alerting them that without restoration of State funding or a negotiated agreement between the County and affected school districts for reimbursement of AB 3632 program costs, DMH and DCFS will discontinue AB 3632 program services when available funding approved by your Board is exhausted.

This proposed plan has been reviewed by County Counsel, who advised that the County is not legally required to do this in light of the funding veto and mandate suspension. Accordingly, while the County is not legally required to provide these services, it is also not prohibited from doing so. The recommendation to fund the services in this manner is made simply to maintain those services for the students impacted by the veto and funding suspension during a transition period. If this plan becomes an issue in any of the litigation, County Counsel has advised that the plan will not be an admission of any legal obligation to provide the services themselves or otherwise fund those services.

RECOMMENDATIONS

It is, therefore, recommended that your Board:

- Authorize DCFS to utilize up to approximately \$4.0 million already appropriated in the DCFS 2010-11 Final Budget for the provision of AB 3632 services, to

continue AB 3632 specialized residential placements, through the end of January 2011, pending the outcome of efforts to restore State funding or negotiation of alternative funding arrangements with school districts; and

- Instruct DMH and DCFS, in conjunction with County Counsel, to complete transition plans for these services to be implemented in the event the State maintains the suspension of the AB 3632 mandate and does not provide funding for the services this fiscal year. Part of the transition plan will include notification to all applicable parties that the County will discontinue services when available funding approved by your Board is exhausted, currently estimated to be the end of January 2011.

This Office and the affected departments will continue to keep your Board apprised of AB 3632 program developments as they occur.

Please contact me if you have any questions, or your staff may contact Sheila Shima, Deputy Chief Executive Officer, at (213) 974-1160.

WTF:SAS:MLM
JS:gl

Attachment

c: Executive Office, Board of Supervisors
County Counsel
Auditor-Controller
Children and Family Services
Mental Health

COUNTY OF LOS ANGELES - CHIEF EXECUTIVE OFFICE
FISCAL IMPACT OF AB 3632 PROGRAM
FY 10-11 BUDGET (BEFORE GOVERNOR'S VETO TO SHOW IMPACT - VETOES FOOTNOTED)

(12/02/10)

(\$ in Millions)

	<u>Department of Mental Health</u>	<u>Department of Children & Family Svcs</u>
Gross Appropriation	\$ 53.5 (1)	\$ 48.3
Intrafund Transfer	<u>-</u>	<u>7.5 (2) (3)</u>
Net Appropriation	<u>53.5</u>	<u>40.8</u>
Revenue		
AB 3632	17.5 (3)	-
Ser. Emot. Distrbd. (SED) Assistance Pmt.	-	19.3 (3)
SB 90	12.4 (4)	5.0 (4)
EPSDT Medi-Cal: Federal	6.6	-
State	3.2	-
Realignment Sales Tax	-	4.6
Federal IDEA	13.8 (5)	-
	<u>53.5</u>	<u>28.9</u>
NCC	<u>\$ -</u>	<u>\$ 11.9</u>

- (1) Note that \$0.9M EPSDT MCal match is included, funded by SB 90 and AB 3632.
- (2) From DMH, source is DMH's AB 3632. The \$7.5M is also correspondingly reflected in DMH's Gross Appropriation and AB 3632 revenue.
- (3) Vetoed by the Governor on October 8, 2010.
- (4) Jeopardized by the Governor's suspension from Oct 8, 2010.
- (5) Based on historical experience; subject to revised allocation by the State.