

*California*

LEGISLATIVE INFORMATION

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CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

ASSEMBLY BILL**NO. 873****Introduced by Assembly Member Ramos****February 17, 2021**

An act to amend Section 10553.1 ~~of of, and to repeal Section 10553.11 of~~, the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

AB 873, as amended, Ramos. Child welfare services: Indian tribes.

Existing law authorizes the State Department of Social Services to enter into an agreement with a tribe, consortium of tribes, or tribal organization regarding the care and custody of Indian children and jurisdiction over Indian child custody proceedings, under specified circumstances. Existing law requires an agreement entered into under these provisions, when the agreement is concerning the provision of child welfare services, to ensure that a tribe, consortium of tribes, or tribal organization meets current service delivery standards and provides for a specified tribal matching share of costs.

This bill would ~~prohibit an agreement that is entered into pursuant to those provisions, when the agreement is concerning the administrative costs for legal representation in all stages of dependency-related legal proceedings for children in foster care, from requiring a matching share of administrative costs if legal representation is provided by tribal, tribal consortium, or tribal organization attorneys.~~ *eliminate tribal share of costs requirements for an agreement under those provisions. The bill would require the department, subject to funding in the annual Budget Act or another statute, to establish a specialized unit within the department to assist Indian tribes, tribal organizations, and tribal consortia in implementing those agreements.*

Under existing law, upon the implementation date of one of the agreements described above, a county that

otherwise would be responsible for providing the child welfare services or payments specified in the agreement as being provided by the tribe or other tribal entity, as specified, is no longer subject to that responsibility with respect to children served under the agreement.

This bill would delete those provisions. To the extent that deleting the provisions would result in additional county responsibilities with respect to affected children, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: ~~no~~yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 10553.1 of the Welfare and Institutions Code is amended to read:

10553.1. (a) Notwithstanding any other law, the department may enter into an agreement, ~~in accordance with Section 1919 of Title 25 of the United States Code, and~~ consistent with Section 16000.6, with any ~~California Indian tribe or any out of state Indian tribe that has reservation lands that extend into this state, consortium of tribes, or tribal organization~~ *Indian tribe, tribal organization, or tribal consortium located in California*, regarding the care and custody of Indian children and jurisdiction over Indian child custody proceedings, including, but not limited to, agreements that provide for orderly transfer of jurisdiction on a case-by-case basis, for exclusive tribal or state jurisdiction, or for concurrent jurisdiction between the state and tribes.

~~(b)(1) An agreement under subdivision (a) regarding the care and custody of Indian children shall provide for the delegation to the tribe, consortium of tribes, or tribal organization of the responsibility that would otherwise be the responsibility of the county for the provision of child welfare services or assistance payments under the AFDC-FC program, or both.~~

(b) (1) There shall be no tribal share of costs for an agreement under subdivision (a).

(2) An agreement under subdivision (a) concerning the provision of child welfare services shall ensure that a tribe, consortium of tribes, or tribal organization meets current service delivery standards provided for under Chapter 5 (commencing with Section 16500) of ~~Part 4, and provides the tribal matching share of costs required by Section 10553.11.~~ *Part 4.*

(3) An agreement under subdivision (a) concerning assistance payments under the AFDC-FC program shall ensure that a tribe, consortium of tribes, or tribal organization meets current foster care standards provided for under Article 5 (commencing with Section 11400) of Chapter 2 of ~~Part 3, and provides the tribal matching share of costs required by Section 10553.11.~~ *Part 3.*

(4) An agreement under subdivision (a) concerning adoption assistance shall ensure that a tribe, consortium of tribes, or tribal organization meets the current service delivery standards provided for under Chapter 2.1 (commencing with Section 16115) of ~~Part 4, and provides the tribal matching share of costs required by Section 10553.11.~~ *Part 4.*

~~(5) An agreement under subdivision (a) concerning administrative costs for legal representation in all stages of dependency proceedings for children in foster care shall not require a matching share of administrative costs if legal representation is provided by tribal, tribal consortium, or tribal organization attorneys.~~

~~(c) Upon the implementation date of an agreement authorized by subdivision (b), the county that would otherwise be responsible for providing the child welfare services or AFDC-FC payments specified in the agreement as being provided by the tribe, consortium of tribes, or tribal organization shall no longer be subject to that responsibility to children served under the agreement.~~

~~(d)~~

(c) Upon the effective date of an agreement authorized by subdivision ~~(b)~~, (a), the tribe, consortium of tribes, or tribal organization shall comply with fiscal reporting requirements specified by the department for federal and state reimbursement child welfare or AFDC-FC services for programs operated under the agreement.

~~(e)~~

(d) An Indian tribe, consortium of tribes, or tribal organization, that is a party to an agreement under subdivision (a), shall, in accordance with the agreement, be eligible to receive allocations of child welfare services funds.

~~(f)~~

(e) An Indian tribe, consortium of tribes, or tribal organization, that is a party to an agreement under subdivision (a), may, in accordance with the agreement, be eligible to receive an allocation of child welfare services funds to assist in funding the startup costs associated with establishing a comprehensive child welfare services program. The allocation shall be available for expenditure by the Indian tribe, consortium of tribes, or tribal organization for three years of the agreement under subdivision (a). The department may extend the time for expenditure of the allocation upon a showing of good cause by the party seeking an extension. This subdivision shall be implemented only to the extent that funding is expressly provided in the annual Budget Act for these purposes.

~~(g)~~

(f) Implementation of an agreement under subdivision (a) does not impose liability upon, or to require indemnification by, the participating county or the State of California for any act or omission performed by an officer, agent, or employee of the participating tribe, consortium of tribes, or tribal organization, pursuant to this section.

(g) Subject to funding in the annual Budget Act or another statute, the department shall establish a specialized unit within the department to assist Indian tribes, tribal organizations, and tribal consortia in implementing agreements under this section.

SEC. 2. Section 10553.11 of the Welfare and Institutions Code is repealed.

~~10553.11.(a)Effective July 1, 2011, notwithstanding any other law or regulation, a tribe, consortium of tribes, or a tribal organization that is operating a program pursuant to an agreement with the department under Section 10553.1, shall be responsible for the following share of costs:~~

~~(1)For the adequate care of each child receiving AFDC-FC as identified in subdivision (d) of Section 11450, the tribal share shall be 60 percent of the nonfederal share. For nonfederally eligible costs, the tribal share shall be 60 percent of the costs.~~

~~(2)For administrative costs of administering the AFDC-FC program, the tribal share shall be 30 percent of the nonfederal share. For nonfederally eligible administrative costs, the tribal share shall be 30 percent of the costs.~~

~~(3)For the provision of child welfare services pursuant to Section 10101, the tribal share shall be 30 percent of the nonfederal share. For nonfederally eligible costs, the tribal share shall be 30 percent of the costs.~~

~~(4)For the provision of Title XIX child welfare services, the tribal share shall be 30 percent of the nonfederal costs. For services delivered by skilled professional medical personnel, reimbursement may be claimed under Title XIX at an enhanced rate and the tribal share shall be 30 percent of the nonfederal share.~~

~~(5)For wraparound services approved by the department for children described in Section 18250, the tribal share shall be 60 percent of the costs.~~

~~(6)For the support and care of hard to place adoptive children, the tribal share shall be 25 percent of the nonfederal share of the amount specified in Section 16121. For nonfederally eligible children, the tribal share shall be 25 percent of the costs.~~

~~(7)For monthly visitation of children placed in group homes, there shall be no tribal share.~~

~~(8)For the support and care of former dependent children who have been made wards of related guardians, the tribal share shall be 21 percent of the nonfederal share. For nonfederally eligible children, the tribal share shall be 21 percent of the costs. There shall be no tribal share for federally eligible administrative costs. For nonfederally eligible administrative costs, the tribal share shall be 50 percent.~~

~~(9)For the cost of extending aid pursuant to Section 11403 to eligible nonminor dependents who have reached 18 years of age and who are under the jurisdiction of the tribal program, the tribal share shall be 21 percent of the nonfederal share.~~

~~(b)Notwithstanding subdivision (a), commencing July 1, 2014, a tribe, consortium of tribes, or a tribal organization, that is operating a program pursuant to an agreement with the department under Section 10553.1, shall be responsible for the share of costs, as follows:~~

~~(1)For the adequate care of each child receiving AFDC-FC as identified in subdivision (d) of Section 11450, there shall be no tribal share of costs of the nonfederal share with an enhanced federal medical assistance percentage of 80 percent or higher. If the federal medical assistance percentage is below 80 percent, the tribal share of cost shall be 60 percent of the nonfederal share. For nonfederally eligible costs, there shall be no tribal share unless the federal medical assistance percentage for federally eligible cases is below 80 percent, in which case the tribal share for nonfederally eligible costs shall be 60 percent.~~

~~(2)For administrative costs of administering the AFDC-FC program, the tribal share shall be 30 percent of the nonfederal share. For nonfederally eligible administrative costs, the tribal share shall be 30 percent of the costs.~~

~~(3)For the provision of child welfare services pursuant to Section 10101, the tribal share shall be 30 percent of the nonfederal share. For nonfederally eligible costs, the tribal share shall be 30 percent of the costs.~~

~~(4)For the provision of child welfare services under Title XIX of the federal Social Security Act, the tribal share shall be 30 percent of the nonfederal share. For services delivered by skilled professional medical personnel, reimbursement may be claimed under Title XIX of the federal Social Security Act at an enhanced rate and the tribal share shall be 30 percent of the nonfederal share.~~

~~(5)For wraparound services approved by the department for children described in Section 18250, there shall be no tribal share of the costs with an enhanced federal medical assistance percentage of 80 percent or higher. If the federal medical assistance percentage is below 80 percent, the tribal share of cost shall be 60 percent of the nonfederal share.~~

~~(6)For the support and care of hard to place adoptive children, there shall be no tribal share of cost of the nonfederal share of the amount specified in Section 16121 with an enhanced federal medical assistance percentage of 62.5 percent or higher. If the federal medical assistance percentage is below 62.5 percent, the tribal share of cost shall be 25 percent of the nonfederal share. For nonfederally eligible costs, there shall be no tribal share unless the federal medical assistance percentage for federally eligible cases is below 62.5 percent, in which case the tribal share for nonfederally eligible costs shall be 25 percent.~~

~~(7)For monthly visitation of children placed in group homes, there shall be no tribal share.~~

~~(8)For the support and care of former dependent children who have been made wards of related guardians, there shall be no tribal share of cost of the nonfederal share with an enhanced federal medical assistance percentage of 60.5 percent or higher. If the federal medical assistance percentage is below 60.5 percent, the tribal share shall be 21 percent of the nonfederal share. For nonfederally eligible costs, there shall be no tribal share unless the federal medical assistance percentage for federally eligible cases is below 60.5 percent, in~~

~~which case the tribal share for nonfederally eligible costs shall be 21 percent. For nonfederally eligible administrative costs, the tribal share shall be 50 percent.~~

~~(9) For the cost of extending aid pursuant to Section 11403 to eligible nonminor dependents who have reached 18 years of age and who are under the jurisdiction of the tribal program, the tribal share shall be based on the sharing ratios set forth in paragraphs (1), (5), (6), and (8).~~

~~(c) Notwithstanding any other law or regulation, for programs, services, or administrative costs provided pursuant to Section 10553.1, but for which the sharing ratios are not specified in this section, the tribal share of costs shall be equal to the county statutory share of costs as set forth in statutory sharing ratios for each of these programs as in effect on June 30, 2011.~~

~~(d) Notwithstanding any other law, for the purposes of this section, the nonfederal costs for programs, services, or administrative costs provided pursuant to Section 10553.1 shall be borne by the tribe, consortium of tribes, or tribal organization, and the state. However, in the event that an Indian child is transferred from the tribal program to the jurisdiction of the county, the costs for the child shall be borne by the county as for any other child under the county's jurisdiction.~~

SEC. 3. *To the extent that this act has an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation within the meaning of Section 36 of Article XIII of the California Constitution, it shall apply to local agencies only to the extent that the state provides annual funding for the cost increase. Any new program or higher level of service provided by a local agency pursuant to this act above the level for which funding has been provided shall not require a subvention of funds by the state or otherwise be subject to Section 6 of Article XIII B of the California Constitution.*