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AB-873 Child welfare services: Indian tribes. (2021-2022)

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Assembly Bill No. 873

CHAPTER 284

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

[Approved by Governor September 24, 2021. Filed with Secretary of State September 24, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 873, 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 instead require, upon a tribe's request, the department to enter into those agreements, and would eliminate tribal share of costs requirements for those agreements. The bill would require the agreement to ensure that a tribe, tribal organization, or tribal consortium claims and uses all eligible federal funding available under Title IV-E of the federal Social Security Act, and would require nonfederal costs under those agreements to be borne by the state, except as provided.

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: 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 shall, upon an Indian tribe's request, enter into an agreement, in accordance with Section 16000.6, and not inconsistent with Section 1919 of Title 25 of the United States Code, with any Indian tribe, tribal organization, or tribal consortium located in California or with lands that extend into this state 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 adjudication of, and transfer of jurisdiction on a case-by-case basis for, cases subject to exclusive tribal or state jurisdiction, or for concurrent jurisdiction between the state and tribes.

(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, tribal organization, or tribal consortium meets current service delivery standards provided for under Chapter 5 (commencing with Section 16500) of Part 4.

(3) An agreement under subdivision (a) concerning assistance payments under the AFDC-FC program shall ensure that a tribe, tribal organization, or tribal consortium meets current foster care standards provided for under Article 5 (commencing with Section 11400) of Chapter 2 of Part 3.

(4) An agreement under subdivision (a) concerning adoption assistance shall ensure that a tribe, tribal organization, or tribal consortium meets the current service delivery standards provided for under Chapter 2.1 (commencing with Section 16115) of Part 4.

(5) An agreement under subdivision (a) shall ensure that a tribe, tribal organization, or tribal consortium claims and uses all eligible federal funding available under Title IV-E of the federal Social Security Act.

(6) Notwithstanding any other law, the nonfederal costs pursuant to an agreement under this section shall be borne by the state. However, in the event that an Indian child is transferred from the jurisdiction of the tribe to the jurisdiction of the county, the nonfederal costs for the child shall be borne by the county as for any other child under the county's jurisdiction.

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

(d) An Indian tribe, tribal organization, or tribal consortium, 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.

(e) An Indian tribe, tribal organization, or tribal consortium, 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, tribal organization, or tribal consortium 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.

(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, tribal organization, or tribal consortium, pursuant to this section.

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

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.