

AMENDED IN SENATE JUNE 28, 2011

AMENDED IN SENATE MARCH 15, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 101

Introduced by Committee on Budget (Blumenfield (Chair), Alejo, Allen, Brownley, Buchanan, Butler, Cedillo, Chesbro, Dickinson, Feuer, Gordon, Huffman, Mitchell, Monning, and Swanson)

January 10, 2011

An act to amend Sections 33500, 33501, 33607.5, and 33607.7 of, to add Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) to, Division 24 of, and to repeal Section 33604 of, the Health and Safety Code, and to add Sections 97.401 and 98.2 to, and to add Chapter 7 (commencing with Section 100.96) to Part 0.5 of Division 1 of, the Revenue and Taxation Code, relating to redevelopment, and making *An act to add Sections 4792, 12301.07, and 14105.09 to the Welfare and Institutions Code, relating to health and human services, and making an appropriation therefor, to take effect immediately, bill related to the budget.*

LEGISLATIVE COUNSEL'S DIGEST

AB 101, as amended, Committee on Budget. ~~Community redevelopment.~~ *Health and human services.*

(1) Existing law, the Lanterman Developmental Disabilities Services Act, authorizes the State Department of Developmental Services to contract with regional centers to provide services and supports to individuals with developmental disabilities.

This bill would, if a specified provision of the Budget Act of 2011 is operative, state the intent of the Legislature for the department to

identify up to \$100 million in General Fund savings from the developmental services system, as prescribed. This bill would authorize the department to utilize input from prescribed workgroups. This bill would require, as prescribed, the department to report to the Joint Legislative Budget Committee within 10 days of the specified reduction as directed within the Budget Act of 2011.

(2) Existing law provides for the In-Home Supportive Services (IHSS) program, under which, either through employment by the recipient, or by or through contract by the county, qualified aged, blind, and disabled persons receive services enabling them to remain in their own homes. Counties are responsible for the administration of the IHSS program. Under the Medi-Cal program, similar services are provided to eligible individuals, with these services known as personal care option services.

Existing law authorized an individual who was eligible for IHSS services in the 1992–93 fiscal year, and who had his or her services reduced pursuant to specified provisions, but who believed that he or she was at serious risk of out-of-home placement unless all or part of the reduced hours were restored, to apply for an IHSS Care Supplement, as prescribed.

Existing law established a similar reduction in authorized IHSS service hours, which becomes operative only if a specified medication machine pilot project does not achieve a designated amount of savings to the General Fund, as determined by the Department of Finance, and also authorizes an individual whose services have been reduced, and who believes that he or she is at serious risk of out-of-home placement, to submit an IHSS Care Supplement application, in accordance with specified provisions, in order to have all or part of the service hour reduction restored.

Existing law also requires the department to implement a 3.6% reduction in service hours to each IHSS recipient, until July 1, 2012.

This bill, effective January 1, 2012, would impose an additional 20% service hour reduction on IHSS recipients, which would be operative only if a designated provision of the Budget Act of 2011 becomes operative, and would establish an IHSS Care Supplement process for any individual who is notified of a reduction in service hours under the bill, but who believes he or she is at serious risk of out-of-home placement unless all or part of the reduction is restored.

(3) Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which health care services are provided to qualified low-income persons. The Medi-Cal

program is, in part, governed and funded by federal Medicaid Program provisions.

This bill would, effective on or after January 1, 2012, if a specified provision of the Budget Act of 2011 is operative, apply specified payment reductions to managed care health plans that contract with the department and to other specified contracts.

(4) This bill would appropriate \$1,000 to the State Department of Health Care Services for administration.

~~(1) The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities to address the effects of blight, as defined. Existing law provides that an action may be brought to review the validity of the adoption or amendment of a redevelopment plan by an agency, to review the validity of agency findings or determinations, and other agency actions.~~

~~This bill would revise the provisions of law authorizing an action to be brought against the agency to determine or review the validity of specified agency actions:~~

~~(2) Existing law also requires that if an agency ceases to function, any surplus funds existing after payment of all obligations and indebtedness vest in the community.~~

~~The bill would repeal this provision. The bill would suspend various agency activities and prohibit agencies from incurring indebtedness commencing on the effective date of this act. Effective July 1, 2011, the bill would dissolve all redevelopment agencies and community development agencies in existence and designate successor agencies, as defined, as successor entities. The bill would impose various requirements on the successor agencies and subject successor agency actions to the review of oversight boards, which the bill would establish.~~

~~The bill would require county auditor-controllers to conduct an agreed-upon procedures audit of each former redevelopment agency by October 1, 2011. The bill would require the county auditor-controller to determine the amount of property taxes that would have been allocated to each redevelopment agency if the agencies had not been dissolved and deposit this amount in a Redevelopment Property Tax Trust Fund in the county. Revenues in the trust fund would be allocated to various taxing entities in the county and to cover specified expenses of the former agency. The sum of \$1,700,000,000 of these moneys would be allocated to the various counties for deposit in a Public Health and Safety Fund, which would be used to reimburse the state for health and trial court services in the county. The bill would authorize the county~~

to elect not to administer this fund, in which case the Director of Finance would be required to designate a different entity to administer this fund. Under the bill, if the county elects not to administer the fund, it would not receive moneys remaining in the Redevelopment Property Tax Trust Fund, which would otherwise be distributed to taxing entities in the county. The bill would also require, for the 2012–13 fiscal year and each subsequent fiscal year in which funds are available, each county auditor-controller to allocate to various educational entities a specified amount. By imposing additional duties upon local public officials, the bill would create a state-mandated local program.

(3) Under the California Constitution, the Legislature is prohibited, except by a $\frac{2}{3}$ vote, from changing the pro rata shares in which ad valorem property tax revenues are allocated among local agencies in a county.

Because this measure would provide property tax revenues that would otherwise be received by enterprise special districts from former redevelopment tax increment allotments instead be received by the respective county, and may result in property tax moneys in the Redevelopment Property Tax Trust Fund not being allocated to the county if it declines to administer the Public Health and Safety Fund, the bill would constitute a change in the pro rata share of property tax allocations in that county and require the passage of the bill by a $\frac{2}{3}$ vote.

(4) The bill would appropriate \$500,000 to the Department of Finance from the General Fund for administrative costs associated with the bill.

(5) 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.

(6)

(5) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Vote: $\frac{2}{3}$ -majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: *yes-no*.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 4792 is added to the Welfare and
- 2 Institutions Code, to read:

1 4792. (a) *This section of law shall only be operative if*
2 *subdivision (b) of Section 3.94 of the Budget Act of 2011 is*
3 *operative. It is the intent of the Legislature for the department to*
4 *identify up to one hundred million dollars (\$100,000,000) in*
5 *General Fund savings from within the overall developmental*
6 *services system, including any savings or reductions within state*
7 *administrative support, operation of the developmental centers,*
8 *and operation of the regional centers, including administration*
9 *and the purchase of services where applicable if subdivision (b)*
10 *of Section 3.94 of the Budget Act of 2011 is operative. A variety*
11 *of strategies, including, but not limited to, savings attributable to*
12 *caseload adjustments, changes in expenditure trends, unexpended*
13 *contract funds, or other administrative savings or restructuring*
14 *can be applied to this reduction with the intent of keeping*
15 *reductions as far away as feasible from consumer's direct needs,*
16 *services, and supports, including health, safety, and quality of life.*

17 (b) *The department may utilize input from workgroups*
18 *comprised of consumers and family members, consumer-focused*
19 *advocacy groups, service provider representatives, regional center*
20 *representatives, developmental center representatives, other*
21 *stakeholders, and staff of the Legislature, to develop General Fund*
22 *savings proposals as necessary.*

23 (c) *If subdivision (b) of Section 3.94 of the Budget Act of 2011*
24 *is operative, and the department is directed to identify up to one*
25 *hundred million dollars (\$100,000,000) in General Fund savings*
26 *from within the developmental services system, any savings or*
27 *reductions identified shall be reported to the Joint Legislative*
28 *Budget Committee within 10 days of the reduction as directed*
29 *within Section 3.94 of the Budget Act of 2011.*

30 SEC. 2. *Section 12301.07 is added to the Welfare and*
31 *Institutions Code, to read:*

32 12301.07. (a) (1) *Notwithstanding any other provision of law,*
33 *if Section 3.94 of the Budget Act of 2011 becomes operative, the*
34 *department shall implement a 20 percent reduction in authorized*
35 *hours of service to each in-home supportive services recipient as*
36 *specified in this section, effective January 1, 2012, which shall be*
37 *applied to the recipient's hours as authorized pursuant to his or*
38 *her most recent assessment.*

39 (2) *The reduction required by this section shall not preclude*
40 *any reassessment to which a recipient would otherwise be entitled.*

1 *However, hours authorized pursuant to a reassessment shall be*
2 *subject to the reduction required by this section.*

3 *(3) For those recipients who have a documented unmet need,*
4 *excluding protective supervision, because of the limitations*
5 *contained in Section 12303.4, this reduction shall be applied first*
6 *to the unmet need before being applied to the authorized hours. If*
7 *the recipient believes he or she will be at serious risk of*
8 *out-of-home placement as a consequence of the reduction, the*
9 *recipient may apply for a restoration of the reduction of authorized*
10 *service hours, pursuant to subdivision (f).*

11 *(4) A recipient of services under this article may direct the*
12 *manner in which the reduction of hours is applied to the recipient's*
13 *previously authorized services.*

14 *(5) The reduction in service hours made pursuant to paragraph*
15 *(2) shall not apply to in-home supportive services recipients who*
16 *also receive services under Section 9560, subdivision (t) of Section*
17 *14132, and Section 14132.99.*

18 *(b) The department shall work with the counties to develop a*
19 *process to allow for counties to preapprove IHSS Care*
20 *Supplements described in subdivision (f), to the extent that the*
21 *process is permissible under federal law. The preapproval process*
22 *shall be subject to the following conditions:*

23 *(1) The preapproval process shall rely on the criteria for*
24 *assessing IHSS Supplemental Care applications, developed*
25 *pursuant to subdivision (f).*

26 *(2) Preapproval shall be granted only to individuals who would*
27 *otherwise be granted a full restoration of their hours pursuant to*
28 *subdivision (f).*

29 *(3) With respect to existing recipients as of the effective date of*
30 *this section, all efforts shall be made to ensure that counties*
31 *complete the process on or before a specific date, as determined*
32 *by the department, in consultation with counties in order to allow*
33 *for the production, printing, and mailing of notices to be issued*
34 *to remaining recipients who are not granted preapproval and who*
35 *thereby are subject to the reduction pursuant to this section.*

36 *(4) The department shall work with counties to determine how*
37 *to apply a preapproval process with respect to new applicants to*
38 *the IHSS program who apply after the effective date of this section.*

39 *(c) The notice of action informing each recipient who is not*
40 *preapproved for an IHSS Care Supplement pursuant to subdivision*

1 (b) shall be mailed at least 15 days prior to the reduction going
2 into effect. The notice of action shall be understandable to the
3 recipient and translated into all languages spoken by a substantial
4 number of the public served by the In-Home Supportive Services
5 program, in accordance with Section 7295.2 of the Government
6 Code. The notice shall not contain any recipient financial or
7 confidential identifying information other than the recipient's
8 name, address, and Case Management Information and Payroll
9 System (CMIPS) client identification number, and shall include,
10 but not be limited to, all of the following information:

11 (1) The aggregate number of authorized hours before the
12 reduction pursuant to paragraph (1) of subdivision (a) and the
13 aggregate number of authorized hours after the reduction.

14 (2) That the recipient may direct the manner in which the
15 reduction of authorized hours is applied to the recipient's
16 previously authorized services.

17 (3) How all or part of the reduction may be restored, as set forth
18 in subdivision (f), if the recipient believes he or she will be at
19 serious risk of out-of-home placement as a consequence of the
20 reduction.

21 (d) The department shall inform providers of any reduction to
22 recipient hours through a statement on provider timesheets, after
23 consultation with counties.

24 (e) The IHSS Care Supplement application process described
25 in subdivision (f) shall be completed before a request for a state
26 hearing is submitted. If the IHSS Care Supplement application is
27 filed within 15 days of the notice of action required by subdivision
28 (c), or before the effective date of the reduction, the recipient shall
29 be eligible for aid paid pending. A revised notice of action shall
30 be issued by the county following evaluation of the IHSS Care
31 Supplement application.

32 (f) Any aged, blind, or disabled individual who is eligible for
33 services under this chapter who receives a notice of action
34 indicating that his or her services will be reduced under subdivision
35 (a) but who believes he or she is at serious risk of out-of-home
36 placement unless all or part of the reduction is restored may submit
37 an IHSS Care Supplement application. When a recipient submits
38 an IHSS Care Supplement application within 15 days of receiving
39 the reduction notice or prior to the implementation of the reduction,
40 the recipient's in-home supportive services shall continue at the

1 level authorized by the most recent assessment, prior to any
2 reduction, until the county finds that the recipient does or does
3 not require restoration of any hours through the IHSS Care
4 Supplement. If the recipient disagrees with the county's
5 determination concerning the need for the IHSS Care Supplement,
6 the recipient may request a hearing on that determination.

7 (1) The department shall develop an assessment tool, in
8 consultation with stakeholders, to be used by the counties to
9 determine if a recipient is at serious risk of out-of-home placement
10 as a consequence of the reduction of services pursuant to this
11 section. The assessment tool shall be developed utilizing standard
12 of care criteria for relevant out-of-home placements that serve
13 individuals who are aged, blind, or who have disabilities and who
14 would qualify for IHSS if living at home, including, but not limited
15 to, criteria set forth in Chapter 7.0 of the Manual of Criteria for
16 Medi-Cal Authorization published by the State Department of
17 Health Care Services, as amended April 15, 2004, and the IHSS
18 uniform assessment guidelines.

19 (2) Counties shall give a high priority to prompt screening of
20 persons specified in this section to determine their need for an
21 IHSS Care Supplement.

22 (g) (1) Notwithstanding the rulemaking provisions of the
23 Administrative Procedure Act (Chapter 3.5 (commencing with
24 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
25 Code), the department may implement and administer this section
26 through all-county letters or similar instruction from the
27 department until regulations are adopted. The department shall
28 adopt emergency regulations implementing this section no later
29 than March 1, 2013. The department may readopt any emergency
30 regulation authorized by this section that is the same as or
31 substantially equivalent to an emergency regulation previously
32 adopted under this section.

33 (2) The initial adoption of emergency regulations implementing
34 this section and the one readoption of emergency regulations
35 authorized by this subdivision shall be deemed an emergency and
36 necessary for the immediate preservation of the public peace,
37 health, safety, or general welfare. Initial emergency regulations
38 and the one readoption of emergency regulations authorized by
39 this section shall be exempt from review by the Office of
40 Administrative Law. The initial emergency regulations and the

1 one readoption of emergency regulations authorized by this section
2 shall be submitted to the Office of Administrative Law for filing
3 with the Secretary of State and each shall remain in effect for no
4 more than 180 days, by which time final regulations may be
5 adopted.

6 (h) If the Director of Health Care Services determines that
7 federal approval is necessary to implement this section, this section
8 shall be implemented only after any state plan amendments
9 required pursuant to Section 14132.95 are approved.

10 SEC. 3. Section 14105.09 is added to the Welfare and
11 Institutions Code, to read:

12 14105.09. Notwithstanding any other provision of law, if
13 subdivision (b) of Section 3.94 of the Budget Act of 2011 is
14 operative, effective on or after January 1, 2012, the payment
15 reductions in Sections 14105.07, 14105.192, 14126.033, 14131.05,
16 and 14131.07 shall apply to managed care health plans that
17 contract with the department pursuant to Chapter 8.75
18 (commencing with Section 14590) and to contracts with the Senior
19 Care Action Network and AIDS Healthcare Foundation, to the
20 extent that the services are provided through any of these contracts,
21 payments shall be reduced by the actuarial equivalent amount of
22 the payment reductions pursuant to contract amendments or change
23 orders effective on July 1, 2011, or thereafter.

24 SEC. 4. The sum of one thousand dollars (\$1,000) is hereby
25 appropriated from the General Fund to the State Department of
26 Health Care Services for administration.

27 SEC. 5. This act is a bill providing for appropriations related
28 to the Budget Bill within the meaning of subdivision (e) of Section
29 12 of Article IV of the California Constitution, has been identified
30 as related to the budget in the Budget Bill, and shall take effect
31 immediately.

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**All matter omitted in this version of the bill
appears in the bill as amended in the
Senate, March 15, 2011. (JR11)**