

AMENDED IN SENATE AUGUST 22, 2012

AMENDED IN SENATE JUNE 26, 2012

AMENDED IN SENATE JUNE 26, 2012

AMENDED IN SENATE JUNE 13, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1471**

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

January 10, 2012

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~~An act to amend Sections 17311.5 and 17706 of the Family Code, to amend Sections 1522 and 1596.871 of the Health and Safety Code, to amend Section 6151 of the Revenue and Taxation Code, and to amend Sections 11320.1, 11320.3, 11325.71, 11329.5, 11462.04, 11464, 11487, 12301.06, 12305.87, 12306.6, 14124.93, 15525, 18285, 19704, 19705, and 19709 of, to amend the heading of Chapter 7 (commencing with Section 19700) of Part 2 of Division 10 of, to amend, repeal, and add Sections 11322.63, 11322.8, 11451.5, and 11454.5 of, to add Sections 11265.45, 11265.46, 11265.47, 11265.48, 11322.85, 11322.86, 11322.87, 11334.6, 19705.1, and 19710 to, to repeal Sections 12301.03, 12301.05, 14132.957, 19700, 19701, 19702, and 19706 of, to repeal Part 1.75 (commencing with Section 10200) of Division 9 of, and to repeal, add, and repeal Section 11334.8 of, the Welfare and Institutions Code, and to amend Section 72 of Chapter 32 of the Statutes of 2011, relating to human services, and making an appropriation therefor, to take effect immediately, bill related to the budget. *An act to amend Sections 6253.2, 6531.5, 110001, 110003, 110011, 110012, 110013,*~~

110019, 110022, 110023, 110024, 110029, 110031, 110034, and 110035 of the Government Code, to amend Sections 1502 and 1531.15 of the Health and Safety Code, to amend Sections 4094.7, 5405, 6500, 10101.1, 11265.45, 11265.47, 11322.8, 11325.21, 11325.23, 11334.8, 11451.5, 12300.5, 12300.7, 12302.21, 12302.25, 12302.6, 12306, 12306.1, 12306.15, 12330, 14186.35, 18906.55, and 18987.7 of the Welfare and Institutions Code, and to amend Section 17 of Chapter 45 of the Statutes of 2012, relating to human services, and making an appropriation therefor, to take effect immediately, bill related to the budget.

## LEGISLATIVE COUNSEL'S DIGEST

AB 1471, as amended, Committee on Budget. Human services.

*Existing law provides for the county-administered In-Home Supportive Services (IHSS) program, under which qualified aged, blind, and disabled persons are provided with services in order to permit them to remain in their own homes and avoid institutionalization. Existing law authorizes services to be provided under the IHSS program either through the employment of individual providers, a contract between the county and an entity for the provision of services, the creation by the county of a public authority, or a contract between the county and a nonprofit consortium. Existing law establishes the California In-Home Supportive Services Authority (Statewide Authority) and requires the authority to be the entity authorized to meet and confer in good faith regarding wages, benefits, and other terms and conditions of employment with representatives of recognized employee organizations for any individual provider who is employed by a recipient of supportive services.*

*Existing law establishes the In-Home Supportive Services Employer-Employee Relations Act, which serves to resolve disputes regarding wages, benefits, and other terms and conditions of employment between the Statewide Authority and recognized employee organizations. Existing law authorizes individual providers to form, join, and participate in the activities of employee organizations for the purpose of representation on all matters within the scope of representation. Under existing law, the Statewide Authority is the employer of record, for collective bargaining purposes, of individual providers of in-home supportive services in each county upon implementation by a county.*

*This bill, would, among other things, clarify that predecessor agencies to the Statewide Authority cannot meet and confer in good faith with a recognized employee organization after the Statewide Authority assumes those agencies' rights and responsibilities. The bill would also require, if the Statewide Authority and the recognized employee organization negotiate changes to locally administered health benefits, the Statewide Authority to give a county and a specified entity 90 days' notice before the changes are implemented. This bill would provide that the scope of representation shall exclude providing assistance to IHSS recipients through the establishment of emergency backup services. This bill would change references from the employer and public agency to the Statewide Authority in these provisions, and would make other technical and clarifying changes to these provisions.*

*Existing law authorizes managed care health plans, as defined, to assume the authority, previously granted to counties, to contract for the provision of in-home supportive services with a qualified agency, as defined, subject to specified restrictions and requirements. Existing law requires qualified agencies to establish procedures to ensure specified contract limitations on caseload are being met and there is coordination of information between managed care health plans, qualified agencies, counties, and the department.*

*This bill would, among other things, create an alternative means to meet a documentation requirement for entities seeking authorization as a qualified agency, as specified, and would specify that counties and managed care health plans are also required to establish those procedures. By increasing the duties of local entities, this bill would create a state-mandated local program. This bill would provide that the state shall be immune from liability resulting from the state's implementation of those provisions, and from the negligence or intentional torts of a contract provider providing services pursuant to those provisions.*

*Existing law requires all counties, commencing July 1, 2012, to have a County IHSS Maintenance of Effort (MOE), and requires counties to pay the County IHSS MOE instead of paying the nonfederal share of IHSS costs, as specified.*

*This bill would specify that the MOE shall be adjusted for the annualized cost of increases in provider wages or health benefits that are locally negotiated, mediated, or imposed before the Statewide Authority assumes specified responsibilities for certain counties. This*

bill would require the Department of Finance to consult with a specified organization, as prescribed, to implement the MOE.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. One of the methods by which these services are provided is pursuant to contracts with various types of managed care plans. Existing law provides that, not sooner than March 1, 2013, IHSS shall be a Medi-Cal benefit available through managed care health plans in specified counties, and requires managed care health plans to, among other things, enter into a contract with the State Department of Social Services to pay wages to IHSS providers, as specified. Existing law requires the department to assume responsibility for providing workers' compensation coverage for specified employees who provide in-home supportive services pursuant to contracts with counties.

This bill would, among other things, require managed care health plans to enter into a contract with the department to pay benefits to IHSS providers, as specified. This bill would provide that a managed care health plan shall not be deemed to be the employer of an in-home supportive services provider for purposes of liability, as specified. This bill would also require the department to provide workers' compensation coverage for specified employees pursuant to contracts with managed care health plans.

Existing law provides that specified provisions relating to the California In-Home Supportive Services Authority and managed care health plans that contract for the provision of in-home supportive services shall become inoperative under certain circumstances.

This bill would include among those provisions the In-Home Supportive Services Employer-Employee Relations Act.

Existing law, the California Community Care Facilities Act, among other provisions, authorizes a licensee of certain adult residential facilities or group homes to utilize secured perimeters, as defined. Under existing law, only individuals meeting specified criteria may reside in a facility that utilizes secured perimeters. These criteria include a requirement that the individual is not a foster care child under the jurisdiction of the juvenile court pursuant to specified law.

*This bill would revise the list of laws, pursuant to which the juvenile court has jurisdiction over a foster child, for purposes of eligibility to reside in a facility with secured perimeters, as described above.*

*Under existing law, prior to the initial licensure or first renewal of a license of any person to operate or manage specified psychiatric and mental health care facilities, the State Department of Social Services is required to submit fingerprint images and other information pertaining to the applicant or licensee to the Department of Justice. Existing law imposes similar requirements on the State Department of Social Services upon the employment of, or contract with or for, any direct care staff.*

*This bill would transfer the responsibilities of the State Department of Social Services with respect to submitting the fingerprint images and information described above to the applicant, licensee, or direct care staff person, as appropriate.*

*Existing law requires each county to pay 30% of the nonfederal share of costs of administering the CalFresh program.*

*Existing law also requires counties to expend an amount for programs that provide services to needy families that, when combined with the funds expended above for the administration of the CalFresh program, equals or exceeds the amount spent by the county for corresponding activities during the 1996–97 fiscal year.*

*Existing law provides that any county that equals or exceeds the amount spent by the county for corresponding activities during the 1996–97 fiscal year entirely through expenditures for the administration of the CalFresh program in the 2010–11 and 2011–12 fiscal years shall receive the full state General Fund allocation for the administration of the CalFresh program without paying the county's share of the nonfederal costs for the amount above the 1996–97 expenditure requirement.*

*This bill would extend counties' eligibility to receive the full allocation for CalFresh administration under the above circumstances to the 2012–13 state fiscal year.*

*This bill would make various other technical changes to provisions relating to health and human services programs.*

*This bill would appropriate \$1,000 from the General Fund to the California Health and Human Services Agency.*

*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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

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

~~Under existing law, the parents of a minor child are responsible for supporting the child. Existing law establishes the Department of Child Support Services, which administers all federal and state laws and regulations relating to child support enforcement obligations. The Director of Child Support Services is also responsible for implementing and managing the statewide automated child support system, which includes the State Disbursement Unit. Existing law establishes the Child Support Payment Trust Fund in the State Treasury and authorizes the deposit of child support payments received by the State Disbursement Unit into that fund, including overpayments, for the purpose of processing and providing child support payments. Under existing law, the Department of Child Support Services may enter into a trust agreement with an intermediary to receive or disburse child support collections. A trust agreement under these provisions may create trust accounts held outside the State Treasury.~~

~~This bill, for the 2012–13 fiscal year only, would authorize money in those trust accounts to be invested in specified securities or alternatives that offer comparable security, including mutual funds and money market funds. The bill would not authorize an investment or transfer that would interfere with the objective of the Child Support Payment Trust Fund.~~

~~Existing law requires each county to provide cash assistance and other social services to needy families through the California Work Opportunity and Responsibility to Kids (CalWORKs) program, using federal Temporary Assistance to Needy Families (TANF) block grant program, state, and county funds.~~

~~Under existing law, the county is required to annually redetermine eligibility for CalWORKs benefits. Existing law additionally requires the county to redetermine recipient eligibility and grant amounts on a quarterly basis, using prospective budgeting, and to prospectively determine the grant amount that a recipient is entitled to receive for each month of the quarterly reporting period. Under existing law, a~~

~~CalWORKs recipient is required to report to the county, orally or in writing, specified changes that could affect the amount of aid to which the recipient is entitled. Under existing law, the CalWORKs quarterly reporting system becomes inoperative on October 1, 2013. A semiannual reporting system becomes operative on April 1, 2013, and is required to be implemented by counties no later than October 1, 2013, as specified.~~

~~This bill, notwithstanding existing law, would exempt a CalWORKs assistance unit that does not include an eligible adult from periodic reporting requirements other than the annual redetermination, and would specify grant calculation income reporting thresholds, recipient reporting duties, and other criteria applicable to these assistance units.~~

~~Under existing law, a parent or caretaker relative is ineligible for CalWORKs aid when he or she has received aid for a cumulative total of 48 months, as specified. Certain months are not counted as months of aid for purposes of calculating the 48-month time limit.~~

~~Under the CalWORKs program, certain recipients are required to participate in specified welfare-to-work activities, unless an applicable exemption applies. Exempted individuals include, until July 1, 2012, a parent or other relative who has primary responsibility for personally providing care to one child who is from 12 to 23 months of age, inclusive, or 2 or more children who are under 6 years of age.~~

~~This bill would make the caregiver exemption described above inoperative on January 1, 2013. The bill would require counties to reengage the exempted individuals in welfare-to-work activities, by October 1, 2014, except as specified. The bill also would create a similar, one-time exemption for caregivers of a child from birth to 23 months of age, inclusive, as specified, and would provide, effective January 1, 2013, that a month during which this exemption applies and a month during which a recipient was exempted under the prior exemption and has not been reengaged would not be counted as a month of receipt of aid for the recipient. By expanding eligibility for CalWORKs aid under some circumstances, this bill would make an appropriation, and by expanding county duties, the bill also would impose a state-mandated local program.~~

~~Existing law requires a participant to participate for at least 20 hours per week in core activities, as specified.~~

~~This bill effective January 1, 2013, would modify the number of welfare-to-work participation hours to conform to certain federal~~

requirements, and would eliminate the above-described requirement relating to core activities.

This bill would revise welfare-to-work requirements applicable to new CalWORKs recipients, on and after January 1, 2013. These recipients would receive 24 months of specified welfare-to-work services and activities, and would then be required to meet federal work participation requirements, as specified, unless they are exempted from participation, or receive an extension, as prescribed. By increasing county duties, the bill would impose a state-mandated local program.

Existing law gives counties, through the 2011–12 fiscal year, the option to redirect funding, both from and to the amounts appropriated for CalWORKs mental health employment assistance services and CalWORKs substance abuse treatment services, and from and to other CalWORKs employment services that are necessary for individuals to participate in welfare-to-work activities.

This bill would extend this county authority through the 2013–14 fiscal year.

Existing law provides that certain amounts are exempt from the calculation of income of the family for purposes of determining eligibility for benefits under the CalWORKs program. Certain exempt amounts are calculated based on the amount of disability-based unearned income and earned income. State funds are continuously appropriated to pay for a share of costs under the CalWORKs program.

This bill would change the exempt amount described above by revising the calculation. To the extent that this bill would expand CalWORKs eligibility or increase grant amounts, the bill would make an appropriation. In addition, by increasing county administrative duties, the bill would impose a state-mandated local program.

Existing law provides that when aid under the CalWORKs program is repaid to the state by means of child support collections, the state is entitled to the entire amount of the aid repaid, except where federal and county funds were paid, in which case the federal government remains entitled to a proportionate share of the amount received or recovered and the county remains entitled to its proportionate share, except for county funds received or recovered during the 2011–12 fiscal year, which are retained by the state.

This bill would extend the suspension of the county's recovery of repaid funds under the above provisions, for the 2012–13 fiscal year, thus allowing the state to retain those funds.

~~Existing law provides that the 10 counties with the best performance standards shall receive an additional 5% of the state's share of those counties' collections that are used to reduce or repay aid that is paid under the California Work Opportunity and Responsibility to Kids (CalWORKs) program. Existing law requires these additional funds received by a county to be used for specified child support-related activities. Existing law suspends the payment of this additional 5% for the 2002-03 to 2011-12 fiscal years, inclusive.~~

~~This bill would extend the suspension of the additional 5% payments through the 2014-15 fiscal year.~~

~~Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, and under which qualified low-income persons receive health care services. Existing law requires the Department of Child Support Services to provide payments to the local child support agency of \$50 per case for obtaining 3rd-party health coverage or insurance of Medi-Cal beneficiaries, to the extent that funds are appropriated in the Budget Act. Under existing law, these payments are suspended for the 2003-04 to 2011-12 fiscal years, inclusive.~~

~~This bill would extend the suspension of the above-described payments to local child support agencies through the 2014-15 fiscal year.~~

~~Existing law requires the State Department of Social Services, before issuing a license or special permit to any person to operate or manage a community care facility or a day care facility, to secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other specified person has ever been convicted of various crimes. Existing law, except during the 2003-04 to the 2011-12 fiscal years, inclusive, prohibits the Department of Justice and the State Department of Social Services from charging a fee for the fingerprinting of an applicant for a license to operate a community care facility that will provide nonmedical board, room, and care for 6 or fewer children, the fingerprinting of a day care facility applicant that will serve 6 or fewer children, or any family day care applicant, or for obtaining a criminal record of these applicants.~~

~~This bill would extend this authorization through the 2012-13 fiscal year.~~

~~Under existing law, one of the methods by which Medi-Cal program services are provided is pursuant to contracts with various types of managed care plans. Existing federal law provides for the federal~~

~~Medicare Program, which is a public health insurance program for persons 65 years of age and older and specified persons with disabilities who are under 65 years of age. Existing law also provides for the county-administered In-Home Supportive Services (IHSS) program, under which, either through employment by the recipient, by or through contract by the county, by the creation of a public authority, or pursuant to a contract with a nonprofit consortium, qualified aged, blind, and disabled persons receive services enabling them to remain in their own homes.~~

~~Existing law requires the State Department of Health Care Services to establish a medication machine pilot project for certain at-risk Medi-Cal recipients, as specified, and designates the duties of the department in this regard. Existing law requires the State Department of Social Services, if the Department of Finance makes a specified determination, to implement, with some exceptions, a reduction in authorized hours of service to each IHSS recipient, as prescribed.~~

~~This bill would delete these latter provisions.~~

~~Existing law makes specified findings and declarations with respect to the effect of decreased funding for CalWORKs for the 2009–10 to 2011–12 fiscal years, inclusive. In connection with this decreased funding, existing law extends certain exemptions from months counted as a month of receipt of aid, and allows counties to redirect funding between specified employment assistance and substance abuse treatment programs during the specified fiscal years, and to revise a specified welfare-to-work exemption in order to implement the county's portion of specified funding reductions.~~

~~This bill would extend the above provisions indefinitely to apply to specified decreases in CalWORKs funding.~~

~~Existing law requires recipients of aid under the CalWORKs program who are under 19 years of age who are pregnant or custodial parents to participate in certain educational programs, which are referred to as the Cal-Learn Program. Existing law makes the Cal-Learn Program inoperative until July 1, 2012, except as specified.~~

~~This bill would provide that from July 1, 2012, to March 31, 2013, inclusive, counties be provided full or partial year funding, depending on the pace of their progression to full implementation of the Cal-Learn Program by April 1, 2013. By increasing the duties of counties, this bill would impose a state-mandated local program.~~

~~This bill would require the State Department of Social Services to submit a report to the budget committees of the Legislature with specified information relating to the Cal-Learn Program.~~

~~Existing law prohibits the establishment of a new group home rate or change to an existing rate under the AFDC-FC program for a prescribed period, except for exemptions granted on a case-by-case basis, and repeals this prohibition on January 1, 2013.~~

~~This bill would limit exceptions for any program with a rate classification level (RCL) below 10 to exceptions associated with a program change.~~

~~Existing law also requires the State Department of Social Services to implement a 3.6% reduction in service hours to each IHSS recipient, until July 1, 2012.~~

~~This bill would extend this reduction in service hours through July 1, 2013.~~

~~Existing law, the Sales and Use Tax Law, imposes a sales tax on retailers for the privilege of selling tangible personal property at retail, measured by the gross receipts from the sale of tangible personal property sold at retail in this state. A violation of specified provisions of this law is a crime. Existing law similarly imposes a sales tax on providers of support services for the privilege of selling support services at retail, measured by the gross receipts from the sale of those services in this state at a specified rate of those gross receipts.~~

~~Existing law creates the Personal Care IHSS Quality Assurance Revenue Fund in the State Treasury, and requires the revenue from the tax, less refunds, to be deposited in the fund. The fund is continuously appropriated to the State Department of Social Services for purposes of providing specified supplementary payments to providers of in-home supportive services. Existing law requires the IHSS provider tax and related supplementary payments to be implemented no earlier than July 1, 2010.~~

~~This bill would extend the earliest implementation date for the provider tax and supplementary payment provisions to January 1, 2012.~~

~~Existing law establishes the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which counties provide payments to foster care providers, including group homes, on behalf of qualified children in foster care, according to a schedule of basic foster care rates. The program is funded by a combination of federal, state, and county funds. Under existing law, the basic AFDC-FC rates are adjusted annually on July 1 by the annual percentage change~~

in the California Necessities Index applicable to the calendar year within which that July 1 occurs.

~~Existing law declares the need to provide enhanced reimbursement to address the extraordinary care and supervision needs of children who are consumers of regional center services and also receiving AFDC-FC, Kinship Guardianship Assistance Payment Program (Kin-GAP), or Adoption Assistance Program (AAP) benefits, at a rate that is higher than the average rate they would otherwise receive through the foster care system and higher than the rate other children with medical and other significant special needs receive. Existing law requires that if the schedule of foster care basic rates is increased on or after January 1, 2008, these enhanced rates shall be similarly adjusted.~~

~~This bill would revise the requirements relating to the adjustment of the enhanced rates payable for children who are dually eligible, as described above, to instead require those rates to be annually adjusted by the percentage change in the California Necessities Index, beginning with the 2011-12 fiscal year.~~

~~Existing law requires the State Department of Social Services to establish a Work Incentive Nutritional Supplement (WINS) program, under which each county is required to provide a \$40 monthly additional food assistance benefit for each eligible food stamp household, as defined. Under existing law, the WINS program, in tandem with a preassistance employment readiness system (PAERS) program, are required to be implemented by the department on specified dates.~~

~~This bill would reduce the amount of the WINS benefit to \$10 per month and would revise the various dates applicable to the implementation of the programs.~~

~~Existing law creates the Child Health and Safety Fund, consisting of revenues from a specified license plate program and civil penalties imposed on child day care facility providers. Upon appropriation by the Legislature, 50% of those moneys in the fund derived from the license plate program are required to be expended to address various child health and safety concerns, as specified.~~

~~This bill would include an additional \$501,000 allocation, upon appropriation by the Legislature, for these purposes.~~

~~Existing law vests in the Department of Rehabilitation the responsibility and authority for the provision of vocational rehabilitation services to individuals with physical or mental disabilities. Existing law provides for the Rehabilitation Appeals Board within the department to hear appeals, as prescribed, that have been filed with the board by~~

any applicant for, or client of, the department. Existing law provides that any applicant for, or client of, the department, upon filing a request, as prescribed, has the right to a fair hearing before the board that is required to be held within 45 days of the date the written request is received by the board.

This bill would eliminate the Rehabilitation Appeals Board, provide that a fair hearing will be held before an impartial hearing officer within 60 days of a written request for a hearing, and make related changes.

Existing law requires the State Department of Social Services, in consultation with designated stakeholders in the In-Home Supportive Services program, to develop a new ratesetting methodology for public authority administrative costs, to go into effect commencing with the 2012-13 fiscal year.

This bill would delay the effective date of the new ratesetting methodology to the 2013-14 fiscal year.

Existing law requires the State Department of Social Services to implement a single statewide Child Welfare Services Case Management System (CWS/CMS) to administer and evaluate the state's child welfare services and foster care programs. Existing law also requires the department, in partnership with the Office of Systems Integration (OSI) and designated stakeholders, to perform various activities regarding the effectiveness and operation of the CWS/CMS, and to report on these activities to the Legislature, by January 10, 2012.

This bill would require the State Department of Social Services to use funding included in the Budget Act of 2012 related to replacement of the CWS/CMS for the next steps necessary to move forward with the recommendation of the Child Welfare Automation Study Team (CAST) to proceed toward procuring a new system, as specified. The bill would require the OSI and the department to report the results of these activities, in addition to key milestones and anticipated timelines, to the Legislature by March 1, 2013, for review during the 2013 budget hearings.

This bill would require the State Department of Social Services and the Office of Systems Integration to have a qualified 3rd party conduct a cost-reasonableness assessment of the costs proposed by the vendor to migrate the Consortium-IV counties to the newly developed Los Angeles Eligibility, Automated Determination, Evaluation and Reporting (LEADER) Replacement System, in order to determine whether the proposed overall costs are within range of reasonableness, based on specified factors.

~~This bill would require the State Department of Social Services, in consultation with stakeholders, including counties advocates, and legislative staff, to convene a work group to identify best practices and other strategies to improve early welfare-to-work engagement and barrier removal efforts, to maximize a recipient's welfare-to-work opportunities, as specified. The bill would require the work group to report its findings to the Legislature by January 10, 2013.~~

~~This bill would require the State Department of Social Services to annually update the Legislature regarding the changes made by the bill to the CalWORKs program, and contract with an independent, research-based institution for an evaluation and written report, with specified contents, which would be provided to the Legislature by October 1, 2017.~~

~~This bill would authorize the State Department of Social Services to implement certain of its provisions by all-county letters or similar instructions, pending the adoption of emergency regulations by July 1, 2014.~~

~~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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

~~This bill would appropriate \$1,000 from the General Fund to the California Health and Human Services Agency for administration.~~

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

~~Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.~~

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

- 1     SECTION 1. Section 6253.2 of the Government Code, as added
- 2     by Section 1 of Chapter 804 of the Statutes of 1999, is amended
- 3     to read:
- 4     6253.2. (a) Notwithstanding any other provision of this chapter
- 5     to the contrary, information regarding persons paid by the state to
- 6     provide in-home supportive services pursuant to Article 7
- 7     (commencing with Section 12300) of Chapter 3 of Part 3 of

1 Division 9 of the Welfare and Institutions Code or personal care  
2 services pursuant to Section 14132.95 of the Welfare and  
3 Institutions Code, shall not be subject to public disclosure pursuant  
4 to this chapter, except as provided in subdivision (b).

5 (b) Copies of names, addresses, and telephone numbers of  
6 persons described in subdivision (a) shall be made available, upon  
7 request, to an exclusive bargaining agent and to any labor  
8 organization seeking representation rights pursuant to subdivision  
9 (c) of Section 12301.6 or Section ~~12302~~ 12302.25 of the Welfare  
10 and Institutions Code or Chapter 10 (commencing with Section  
11 3500) of Division 4 of Title 1. This information shall not be used  
12 by the receiving entity for any purpose other than the employee  
13 organizing, representation, and assistance activities of the labor  
14 organization.

15 (c) This section shall apply solely to individuals who provide  
16 services under the In-Home Supportive Services Program (Article  
17 7 (commencing with Section 12300) of Chapter 3 of Part 3 of  
18 Division 9 of the Welfare and Institutions Code) or the Personal  
19 Care Services Program pursuant to Section 14132.95 of the Welfare  
20 and Institutions Code.

21 (d) Nothing in this section is intended to alter or shall be  
22 interpreted to alter the rights of parties under the  
23 Meyers-Milias-Brown Act (Chapter 10 (commencing with Section  
24 3500) of Division 4) or any other labor relations law.

25 (e) *This section shall become operative only if Chapter 45 of*  
26 *the Statutes of 2012 is deemed inoperative pursuant to Section 15*  
27 *of that chapter.*

28 *SEC. 2. Section 6253.2 of the Government Code, as amended*  
29 *by Section 1 of Chapter 45 of the Statutes of 2012, is amended to*  
30 *read:*

31 6253.2. (a) Notwithstanding any other provision of this chapter  
32 to the contrary, information regarding persons paid by the state to  
33 provide in-home supportive services pursuant to Article 7  
34 (commencing with Section 12300) of Chapter 3 of Part 3 of  
35 Division 9 of the Welfare and Institutions Code, or services  
36 provided pursuant to Section 14132.95, 14132.952, or 14132.956  
37 of the Welfare and Institutions Code, shall not be subject to public  
38 disclosure pursuant to this chapter, except as provided in  
39 subdivision (b).

1 (b) Copies of names, addresses, and telephone numbers of  
2 persons described in subdivision (a) shall be made available, upon  
3 request, to an exclusive bargaining agent and to any labor  
4 organization seeking representation rights pursuant to Section  
5 12301.6 or ~~12302~~ 12302.25 of the Welfare and Institutions Code  
6 or the In-Home Supportive Services Employer-Employee Relations  
7 Act (Title 23 (commencing with Section 110000)). This  
8 information shall not be used by the receiving entity for any  
9 purpose other than the employee organizing, representation, and  
10 assistance activities of the labor organization.

11 (c) This section shall apply solely to individuals who provide  
12 services under the In-Home Supportive Services Program (Article  
13 7 (commencing with Section 12300) of Chapter 3 of Part 3 of  
14 Division 9 of the Welfare and Institutions Code), the Personal Care  
15 Services Program pursuant to Section 14132.95 of the Welfare  
16 and Institutions Code, the In-Home Supportive Services Plus  
17 Option pursuant to Section 14132.952 of the Welfare and  
18 Institutions Code, or the Community First Choice Option pursuant  
19 to Section 14132.956 of the Welfare and Institutions Code.

20 (d) Nothing in this section is intended to alter or shall be  
21 interpreted to alter the rights of parties under the In-Home  
22 Supportive Services Employer-Employee Relations Act (Title 23  
23 (commencing with Section 110000)) or any other labor relations  
24 law.

25 (e) *This section shall become inoperative only if Chapter 45 of*  
26 *the Statutes of 2012 is deemed inoperative pursuant to Section 15*  
27 *of that chapter.*

28 *SEC. 3. Section 6531.5 of the Government Code is amended*  
29 *to read:*

30 6531.5. (a) There is hereby created the California In-Home  
31 Supportive Services Authority, hereafter referred to as the  
32 Statewide Authority. Notwithstanding any other law, the Statewide  
33 Authority shall be deemed a joint powers authority created pursuant  
34 to this article and is a public entity separate and apart from the  
35 parties that have appointing power to the Statewide Authority or  
36 the employers of those individuals so appointed. Notwithstanding  
37 the requirements of this article, an agreement shall not be required  
38 to create the Statewide Authority.

39 (b) The Statewide Authority shall consist of the following five  
40 members:

1 (1) Two members shall be county officials who are appointed  
2 by, and who serve at the pleasure of, the Governor.

3 (2) Three members shall be the Director of Social Services, the  
4 Director of Health Care Services, and the Director of Finance in  
5 their ex officio capacities, or their duly appointed representatives.

6 (c) The members of the Statewide Authority shall serve without  
7 compensation.

8 (d) The Statewide Authority shall not be subject to Sections  
9 6501, 6505, and 53051.

10 (e) The Statewide Authority shall appoint an advisory committee  
11 that shall be comprised of not more than 13 individuals. No less  
12 than 50 percent of the membership of the advisory committee shall  
13 be individuals who are current or past users of personal assistance  
14 services paid for through public or private funds or recipients of  
15 services in-home supportive *services*.

16 (1) At least two members of the advisory committee shall be a  
17 current or former provider of in-home supportive services.

18 (2) Individuals who represent organizations that advocate for  
19 people with disabilities or seniors may be appointed to the advisory  
20 committee.

21 (3) Individuals from each representative organization that are  
22 designated representatives of IHSS providers shall be appointed  
23 to the advisory committee.

24 (4) The Statewide Authority shall designate a department  
25 employee to provide ongoing advice and support to the advisory  
26 committee.

27 (f) Prior to the appointment of members to a committee  
28 authorized by subdivision (e), the Statewide Authority shall solicit  
29 recommendations for qualified members through a fair and open  
30 process that includes the provision of reasonable written notice to,  
31 and reasonable response time by, members of the general public  
32 and interested persons and organizations.

33 (g) The advisory committee established pursuant to subdivision  
34 (e) shall provide ongoing advice and recommendations regarding  
35 in-home supportive services to the Statewide Authority, the State  
36 Department of Social Services, and the State Department of Health  
37 Care Services.

38 *SEC. 4. Section 110001 of the Government Code is amended*  
39 *to read:*

1 110001. It is the purpose of this title to promote full  
2 communication between the California In-Home Supportive  
3 Services Authority (the Statewide Authority) and the recognized  
4 employee organization representing ~~independent~~ *individual*  
5 providers by providing a reasonable method of resolving disputes  
6 regarding wages, benefits, and other terms and conditions of  
7 employment, as defined in Section 110023, between the Statewide  
8 Authority for in-home supportive services and recognized  
9 employee organizations. It is also the purpose of this title to  
10 promote the improvement of personnel management and  
11 employer-employee relations within the Statewide Authority by  
12 providing a uniform basis for recognizing the right of ~~independent~~  
13 *individual* providers to join organizations of their own choice and  
14 be represented by those organizations for purposes of collective  
15 bargaining with the Statewide Authority. This title is intended to  
16 strengthen methods of administering employer-employee relations  
17 through the establishment of uniform and orderly methods of  
18 communication between the recognized employee organizations  
19 and the Statewide Authority. Except as expressly provided herein,  
20 this title is not intended to require changes in existing bargaining  
21 units or memoranda of agreement or understanding.

22 *SEC. 5. Section 110003 of the Government Code is amended*  
23 *to read:*

24 110003. As used in this title:

25 (a) “Board” means the Public Employment Relations Board  
26 established pursuant to Section 3541.

27 (b) “Employee” or “individual provider” means any person  
28 authorized to provide in-home supportive services pursuant to  
29 Article 7 (commencing with Section 12300) of Chapter 3 of Part  
30 3 of Division 9 of the Welfare and Institutions Code, and Sections  
31 14132.95, 14132.952, and 14132.956 of the Welfare and  
32 Institutions Code, pursuant to the individual provider mode, as  
33 referenced in Section 12302.2 of the Welfare and Institutions Code.  
34 As used in this title, “employee” or “individual provider” does not  
35 include any person providing in-home supportive services pursuant  
36 to the county-employed homemaker mode or the contractor mode,  
37 as authorized in Section 12302 of the Welfare and Institutions  
38 Code. Individual providers shall not be deemed to be employees  
39 of the Statewide Authority for any other purpose, except as  
40 expressly set forth in this title.

1 (c) “Employee organization” means an organization that includes  
2 employees, as defined in subdivision (b), and that has as one of  
3 its primary purposes representing those employees in their relations  
4 with the Statewide Authority.

5 (d) “Employer” means, for the purposes of collective bargaining,  
6 the Statewide Authority established pursuant to Section 6531.5.  
7 The in-home supportive services recipient shall be the employer  
8 of an individual in-home supportive services provider with the  
9 unconditional and exclusive right to hire, fire, and supervise his  
10 or her provider.

11 (e) “In-home supportive services” *or* “IHSS” means services  
12 provided pursuant to Article 7 (commencing with Section 12300)  
13 of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions  
14 Code, and Sections 14132.95, 14132.952, and 14132.956 of the  
15 Welfare and Institutions Code.

16 (f) “In-home supportive services recipient” means the individual  
17 who receives the in-home supportive services provided by the  
18 individual provider. The in-home supportive services recipient is  
19 the employer for the purposes of hiring, firing, and supervising  
20 his or her respective individual provider.

21 (g) “Mediation” means effort by an impartial third party to assist  
22 in reconciling a dispute regarding wages, benefits, and other terms  
23 and conditions of employment, as defined in Section 110023,  
24 between representatives of the employer and the recognized  
25 employee organization or recognized employee organizations  
26 through interpretation, suggestion, and advice.

27 (h) “Meet and confer in good faith” means that the employer,  
28 or those representatives as it may designate, and representatives  
29 of recognized employee organizations, shall have the mutual  
30 obligation personally to meet and confer promptly upon request  
31 by either party and continue for a reasonable period of time in  
32 order to exchange freely information, opinions, and proposals, and  
33 to endeavor to reach agreement on matters within the scope of  
34 representation prior to the adoption of the annual Budget Act.

35 (i) “Predecessor agency” means a county, ~~a local public~~  
36 ~~authority, or a nonprofit consortium~~ *an entity* established pursuant  
37 to Section 12301.6 of the Welfare and Institutions Code before  
38 the effective date of this title.

39 (j) “Recognized employee organization” means an employee  
40 organization that has been formally acknowledged as follows:

1 (1) ~~Before the effective date of this title~~ *county implementation*  
2 *date as described in subdivision (a) of Section 12300.7 of the*  
3 *Welfare and Institutions Code*, by a county, ~~a local public authority,~~  
4 ~~or a nonprofit consortium~~ *an entity* established pursuant to Section  
5 12301.6 of the Welfare and Institutions Code, as the representative  
6 of its employees.

7 (2) ~~On or after the effective date of this title~~ *county*  
8 *implementation date as described in subdivision (a) of Section*  
9 *12300.7 of the Welfare and Institutions Code*, by the Statewide  
10 Authority, *as the representative of individual providers subject to*  
11 *this title*.

12 (k) “Statewide Authority” means the California In-Home  
13 Supportive Services Authority established pursuant to Section  
14 6531.5.

15 *SEC. 6. Section 110011 of the Government Code is amended*  
16 *to read:*

17 110011. (a) Except as otherwise expressly provided in this  
18 title, the enactment of this title shall not be a cause for the employer  
19 or any predecessor agency to modify or eliminate any existing  
20 memorandum of agreement or understanding, or to modify existing  
21 wages, benefits, or other terms and conditions of employment.  
22 Except to the extent set forth in this title, the enactment of this title  
23 shall not prevent the modification of existing wages, benefits, or  
24 terms and conditions of employment through the meet and confer  
25 in good faith process or, in those situations in which the employees  
26 are not represented by a recognized employee organization, through  
27 appropriate procedures.

28 (b) On the county implementation date, subject to Section  
29 12306.15 of the Welfare and Institutions Code, the Statewide  
30 Authority shall assume the predecessor agency’s rights and  
31 obligations under any memorandum of understanding or agreement  
32 between the predecessor agency and a recognized employee  
33 organization that is in effect on the county implementation date  
34 for the duration thereof. Absent mutual consent to reopen, the  
35 terms of any transferred memorandum of understanding or  
36 agreement shall continue until the memorandum of understanding  
37 or agreement has expired. If a memorandum of understanding or  
38 agreement between a recognized employee organization and a  
39 predecessor agency has expired and has not been replaced by a  
40 successor memorandum of understanding or agreement as of the

1 county implementation date, the Statewide Authority shall assume  
2 the obligation to meet and confer in good faith with the recognized  
3 employee organization.

4 (c) Notwithstanding any other provision of law, except to the  
5 extent set forth in this chapter and as limited by Section 110023,  
6 the terms and conditions of any memorandum of understanding  
7 or agreement between a predecessor agency and a recognized  
8 employee organization in effect on the county implementation date  
9 shall not be reduced, except by mutual agreement between the  
10 recognized employee organization and the Statewide Authority.

11 (d) Nothing in this title shall be construed to relieve any  
12 predecessor agency of its obligation to meet and confer in good  
13 faith with a recognized employee organization pursuant to the  
14 Meyers-Milias-Brown Act (Chapter 10 (commencing with Section  
15 3500) of Division 4 of Title 1) until the county implementation  
16 date. Nothing in this title shall ~~require~~ *permit* the predecessor  
17 agency to meet and confer after the Statewide Authority assumes  
18 the predecessor agency's rights and obligations on the county  
19 implementation date.

20 (e) With the exception of all economic terms covered by Section  
21 12306.15 of the Welfare and Institutions Code and notwithstanding  
22 any other provision of law, beginning July 4, 2012, and ending  
23 on the county implementation date as set forth in subdivision (a)  
24 of Section 12300.7 of the Welfare and Institutions Code, any  
25 alterations or modifications to either current or expired memoranda  
26 of understanding that were in effect on July 1, 2012, and any newly  
27 negotiated memoranda of understanding or agreements reached  
28 after July 1, 2012, shall be submitted for review to the State  
29 Department of Social Services, *hereafter referred to as the*  
30 *department*. This review requirement *shall not begin until a county*  
31 *commences transition pursuant to subdivision (g) of Section*  
32 *14132.275 of the Welfare and Institutions Code, and shall be*  
33 *performed by the department until the Statewide Authority becomes*  
34 *operational, after which date the Statewide Authority shall continue*  
35 *to perform this review requirement. If, upon review, but not later*  
36 *than 180 days after the county commences transition pursuant to*  
37 *paragraph (1) of subdivision (g) of Section 14132.275 of the*  
38 *Welfare and Institutions Code, the department or Statewide*  
39 *Authority reasonably determines that there are one or more newly*  
40 *negotiated or amended noneconomic terms in the memorandum*

1 of understanding or agreement to which it objects for a bona fide  
2 business-related reason, the department or Statewide Authority  
3 shall provide written notice to the signatory recognized employee  
4 organization of each objection and the reason for it. Upon demand  
5 from the recognized employee organization, the department, or  
6 the Statewide Authority, ~~the~~ *those* parties shall meet and confer  
7 regarding the objection and endeavor to reach agreement prior to  
8 the county implementation date. If an agreement is not reached by  
9 the county implementation date, the objectionable language is  
10 deemed inoperable *as of the county implementation date*. All terms  
11 to which no objection is made shall be deemed accepted by the  
12 Statewide Authority. If the Statewide Authority *or the department*  
13 fails to provide the 180 days' notice of objection, it shall be deemed  
14 waived.

15 *SEC. 7. Section 110012 of the Government Code is amended*  
16 *to read:*

17 110012. If the Statewide Authority and the recognized  
18 employee organization negotiate changes to locally administered  
19 health benefits for individual providers, the Statewide Authority  
20 shall give 90 days' notice to the county *and an entity established*  
21 *pursuant to Section 12301.6 of the Welfare and Institutions Code*  
22 *prior to implementation* of the agreed-upon changes.

23 *SEC. 8. Section 110013 of the Government Code is amended*  
24 *to read:*

25 110013. The Legislature hereby finds and declares that  
26 collective bargaining for individual providers under this title  
27 constitutes a matter of statewide concern. Therefore, this title is  
28 applicable to all counties, notwithstanding charter provisions to  
29 ~~the contrary~~ *contrary*, as set forth in Section 110005.

30 *SEC. 9. Section 110019 of the Government Code is amended*  
31 *to read:*

32 110019. (a) Notwithstanding Section 110002, any other  
33 provision of this title, or any other law, rule, or regulation, an  
34 agency shop agreement may be negotiated between the employer  
35 and a recognized public employee organization that has been  
36 recognized as the exclusive or majority bargaining agent, in  
37 accordance with this title. As used in this title, "agency shop"  
38 means an arrangement that requires an employee, as a condition  
39 of continued employment, either to join the recognized employee  
40 organization or to pay the organization a service fee in an amount

1 not to exceed the standard initiation fee, periodic dues, and general  
2 assessments of the organization, to be determined by the  
3 organization in accordance with applicable law.

4 (b) In addition to the procedure prescribed in subdivision (a),  
5 an agency shop arrangement between the Statewide Authority and  
6 a recognized employee organization that has been recognized as  
7 the exclusive or majority bargaining agent shall be placed in effect,  
8 without a negotiated agreement, upon (1) a signed petition of 30  
9 percent of the employees in the applicable bargaining unit  
10 requesting an agency shop agreement and an election to implement  
11 an agency fee arrangement, and (2) the approval of a majority of  
12 employees who cast ballots and vote in a secret ballot election in  
13 favor of the agency shop agreement. The petition may be filed  
14 only after the recognized employee organization has requested the  
15 ~~employer~~ *Statewide Authority* to negotiate on an agency shop  
16 arrangement and, beginning seven working days after the ~~employer~~  
17 *Statewide Authority* received this request, the two parties have had  
18 30 calendar days to attempt good faith negotiations in an effort to  
19 reach agreement. An election that shall not be held more frequently  
20 than once a year shall be conducted by the State Mediation and  
21 Conciliation Service ~~with the Department of Industrial Relations~~  
22 in the event that the ~~employer~~ *Statewide Authority* and the  
23 recognized employee organization cannot agree within 10 days  
24 from the filing of the petition to select jointly a neutral person or  
25 entity to conduct the election. In the event of an agency fee  
26 arrangement outside of an agreement that is in effect, the  
27 recognized employee organization shall indemnify and hold the  
28 ~~employer~~ *Statewide Authority* harmless against any liability arising  
29 from a claim, demand, or other action relating to the ~~employer's~~  
30 *Statewide Authority's* compliance with the agency fee obligation.

31 (c) An individual provider who is a member of a bona fide  
32 religion, body, or sect that has historically held conscientious  
33 objections to joining or financially supporting public employee  
34 organizations shall not be required to join or financially support a  
35 public employee organization as a condition of employment. The  
36 employee may be required, in lieu of periodic dues, initiation fees,  
37 or agency shop fees, to pay sums equal to the dues, initiation fees,  
38 or agency shop fees to a nonreligious, nonlabor charitable fund  
39 exempt from taxation under Section 501(c)(3) of the Internal  
40 Revenue Code, chosen by the employee from a list of at least three

1 of these funds, designated in a memorandum of understanding  
2 between the employer and the recognized employee organization,  
3 or if the memorandum of understanding fails to designate the funds,  
4 then to a fund of that type chosen by the employee. Proof of the  
5 payments shall be made on a monthly basis to the employer as a  
6 condition of continued exemption from the requirement of financial  
7 support to the public employee organization.

8 (d) An agency shop provision in a memorandum of  
9 understanding that is in effect may be rescinded by a majority vote  
10 of all the employees in the unit covered by the memorandum of  
11 understanding, provided that: (1) a request for that type of vote is  
12 supported by a petition containing the signatures of at least 30  
13 percent of the employees in the unit, (2) the vote is by secret ballot,  
14 and (3) the vote may be taken at any time during the term of the  
15 memorandum of understanding, but in no event shall there be more  
16 than one vote taken during that term.

17 (e) A recognized employee organization that has agreed to an  
18 agency shop provision or is a party to an agency shop arrangement  
19 shall keep an adequate itemized record of its financial transactions  
20 and shall make available annually, to the employer with which the  
21 agency shop provision was negotiated, and to the employees who  
22 are members of the organization, within 60 days after the end of  
23 its fiscal year, a detailed written financial report thereof in the form  
24 of a balance sheet and an operating statement, certified as to  
25 accuracy by its president and treasurer or corresponding principal  
26 officer, or by a certified public accountant. An employee  
27 organization required to file financial reports under the federal  
28 Labor-Management Reporting and Disclosure Act of 1959 (29  
29 U.S.C. Sec. 401 et seq.) covering employees governed by this title,  
30 or required to file financial reports under Section 3546.5, may  
31 satisfy the financial reporting requirement of this section by  
32 providing the employer with a copy of the financial reports.

33 *SEC. 10. Section 110022 of the Government Code is amended*  
34 *to read:*

35 110022. Recognized employee organizations shall have the  
36 right to represent their members in their employment relations  
37 with the employer. Employee organizations may establish  
38 reasonable restrictions regarding who may join and may make  
39 reasonable provisions for the dismissal of individuals from  
40 membership. Nothing in this section shall prohibit an employee

1 from appearing on his or her own behalf in his or her employment  
2 relations with the ~~employer~~. *Statewide Authority*.

3 *SEC. 11. Section 110023 of the Government Code is amended*  
4 *to read:*

5 110023. (a) The scope of representation shall include all  
6 matters relating to wages, benefits, and other terms and conditions  
7 of employment. The scope of representation shall exclude the  
8 following *functions performed by, or on behalf of, a county:*

9 ~~(a) Functions performed by, or on behalf of, a county, which~~  
10 ~~shall include all of the following:~~

11 (1) Determining an applicant's eligibility for IHSS benefits.

12 (2) Assessing, approving, and authorizing an IHSS recipient's  
13 initial and continuing need for services.

14 (3) Enrolling providers and conducting provider orientation.

15 (4) Conducting criminal background checks on all potential  
16 providers.

17 (5) Providing assistance to IHSS recipients in finding eligible  
18 providers through the establishment of a provider registry, as well  
19 as providing orientation to recipients.

20 (6) Pursuing overpayment recovery recollection.

21 (7) Performing quality assurance activities.

22 (8) *Providing assistance to IHSS recipients through the*  
23 *establishment of emergency backup services.*

24 ~~(8)~~

25 (9) Performing any other function or responsibility required  
26 pursuant to statute or regulation to be performed by the county.

27 (b) *The scope of representation shall also exclude the IHSS*  
28 *recipient's right to hire, fire, and supervise the individual provider;*  
29 ~~which is reserved to the in-home supportive services recipient.~~

30 *SEC. 12. Section 110024 of the Government Code is amended*  
31 *to read:*

32 110024. (a) Except in cases of emergency as provided in this  
33 section, the Statewide Authority shall give reasonable written  
34 notice to each recognized employee organization affected by any  
35 rule, practice, or policy directly relating to matters within the scope  
36 of representation proposed to be adopted by the ~~employer~~ *Statewide*  
37 *Authority* and shall give each recognized employee organization  
38 the opportunity to meet with the ~~employer~~. *Statewide Authority*.

39 (b) In cases of emergency when the Statewide Authority  
40 determines that any rule, policy, or procedure must be adopted

1 immediately without prior notice or meeting with a recognized  
2 employee organization, the ~~employer~~ *Statewide Authority* shall  
3 provide notice and an opportunity to meet at the earliest practicable  
4 time following the adoption of the rule, policy, or procedure.

5 *SEC. 13. Section 110029 of the Government Code is amended*  
6 *to read:*

7 110029. (a) If, after a reasonable period of time, representatives  
8 of the ~~employer~~ *Statewide Authority* and the recognized employee  
9 organization fail to reach agreement, the dispute shall be referred  
10 to mediation before a mediator mutually agreeable to the parties.  
11 If the parties are unable to agree upon the mediator, either party  
12 may request the board to appoint a mediator in accordance with  
13 rules adopted by the board.

14 (b) The costs of mediation shall be divided one-half to the  
15 ~~employer~~ *Statewide Authority* and one-half to the recognized  
16 employee organization or recognized employee organizations.

17 *SEC. 14. Section 110031 of the Government Code is amended*  
18 *to read:*

19 110031. (a) If the dispute is not settled within 30 days after  
20 the appointment of the factfinding panel, or, upon agreement by  
21 both parties within a longer period, the panel shall make findings  
22 of fact and recommend terms of settlement, which shall be advisory  
23 only. The factfinders shall submit, in writing, any findings of fact  
24 and recommended terms of settlement to the parties before they  
25 are made available to the public. The ~~employer~~ *Statewide Authority*  
26 shall make these findings and recommendations publicly available  
27 within 10 days after their receipt.

28 (b) The costs for the services of the panel chairperson, whether  
29 selected by the board or agreed upon by the parties, shall be equally  
30 divided between the parties, and shall include per diem fees, if  
31 any, and actual and necessary travel and subsistence expenses.  
32 The per diem fees shall not exceed the per diem fees stated on the  
33 chairperson's résumé on file with the board. The chairperson's bill  
34 showing the amount payable by the parties shall accompany his  
35 or her final report to the parties and the board. The chairperson  
36 may submit interim bills to the parties in the course of the  
37 proceedings, and copies of the interim bills shall also be sent to  
38 the board. The parties shall make payment directly to the  
39 chairperson.

1 (c) Any other mutually incurred costs shall be borne equally by  
2 the ~~public agency~~ *Statewide Authority* and the employee  
3 organization. Any separately incurred costs for the panel member  
4 selected by each party shall be borne by that party.

5 (d) Nothing in this chapter shall be construed to prohibit the  
6 mediator appointed pursuant to Section 110029, upon mutual  
7 agreement of the parties, from continuing mediation efforts on the  
8 basis of the findings of fact and recommended terms of settlement  
9 made pursuant to Section 110031.

10 *SEC. 15. Section 110034 of the Government Code is amended*  
11 *to read:*

12 110034. The Statewide Authority shall not do any of the  
13 following:

14 (a) Impose or threaten to impose reprisals on ~~employees,~~  
15 *individual providers*, to discriminate or threaten to discriminate  
16 against ~~employees, individual providers~~, or otherwise to interfere  
17 with, restrain, or coerce ~~employees individual providers~~ because  
18 of their exercise of rights guaranteed by this title.

19 (b) Deny to employee organizations the rights guaranteed to  
20 them by this title.

21 (c) Refuse or fail to meet and negotiate in good faith with a  
22 recognized employee organization. For purposes of this  
23 subdivision, knowingly providing a recognized employee  
24 organization with inaccurate information regarding the financial  
25 resources of the ~~employer~~ *Statewide Authority*, whether or not in  
26 response to a request for information, constitutes a refusal or failure  
27 to meet and negotiate in good faith.

28 (d) Dominate or interfere with the formation or administration  
29 of any employee organization, contribute financial or other support  
30 to any employee organization, or in any way encourage ~~employees~~  
31 *individual providers* to join any organization in preference to  
32 another.

33 (e) Refuse to participate in good faith in any applicable impasse  
34 procedure.

35 *SEC. 16. Section 110035 of the Government Code is amended*  
36 *to read:*

37 110035. (a) The Statewide Authority may adopt reasonable  
38 rules and regulations for all of the following:

39 (1) Registering employee organizations.

1 (2) Determining the status of organizations and associations as  
2 employee organizations or bona fide associations.

3 (3) Identifying the officers and representatives who officially  
4 represent employee organizations and bona fide associations.

5 (4) Any other matters that are necessary to carry out the purposes  
6 of this title.

7 (b) The board shall establish procedures whereby recognition  
8 of employee organizations formally recognized as majority  
9 representatives pursuant to a vote of the employees may be revoked  
10 by a majority vote of the employees only after a period of not less  
11 than 12 months following the date of recognition.

12 (c) ~~The employer~~ *Statewide Authority* shall not unreasonably  
13 withhold recognition of employee organizations.

14 (d) Employees and employee organizations may challenge a  
15 rule or regulation of ~~the employer~~ *Statewide Authority* as a violation  
16 of this title. This subdivision shall not be construed to restrict or  
17 expand the board's jurisdiction or authority as set forth in  
18 subdivisions (a) to (c), inclusive, of Section 3541.3.

19 *SEC. 17. Section 1502 of the Health and Safety Code is*  
20 *amended to read:*

21 1502. As used in this chapter:

22 (a) "Community care facility" means any facility, place, or  
23 building that is maintained and operated to provide nonmedical  
24 residential care, day treatment, adult day care, or foster family  
25 agency services for children, adults, or children and adults,  
26 including, but not limited to, the physically handicapped, mentally  
27 impaired, incompetent persons, and abused or neglected children,  
28 and includes the following:

29 (1) "Residential facility" means any family home, group care  
30 facility, or similar facility determined by the director, for 24-hour  
31 nonmedical care of persons in need of personal services,  
32 supervision, or assistance essential for sustaining the activities of  
33 daily living or for the protection of the individual.

34 (2) "Adult day program" means any community-based facility  
35 or program that provides care to persons 18 years of age or older  
36 in need of personal services, supervision, or assistance essential  
37 for sustaining the activities of daily living or for the protection of  
38 these individuals on less than a 24-hour basis.

39 (3) "Therapeutic day services facility" means any facility that  
40 provides nonmedical care, counseling, educational or vocational

1 support, or social rehabilitation services on less than a 24-hour  
2 basis to persons under 18 years of age who would otherwise be  
3 placed in foster care or who are returning to families from foster  
4 care. Program standards for these facilities shall be developed by  
5 the department, pursuant to Section 1530, in consultation with  
6 therapeutic day services and foster care providers.

7 (4) “Foster family agency” means any organization engaged in  
8 the recruiting, certifying, and training of, and providing  
9 professional support to, foster parents, or in finding homes or other  
10 places for placement of children for temporary or permanent care  
11 who require that level of care as an alternative to a group home.  
12 Private foster family agencies shall be organized and operated on  
13 a nonprofit basis.

14 (5) “Foster family home” means any residential facility  
15 providing 24-hour care for six or fewer foster children that is  
16 owned, leased, or rented and is the residence of the foster parent  
17 or parents, including their family, in whose care the foster children  
18 have been placed. The placement may be by a public or private  
19 child placement agency or by a court order, or by voluntary  
20 placement by a parent, parents, or guardian. It also means a foster  
21 family home described in Section 1505.2.

22 (6) “Small family home” means any residential facility, in the  
23 licensee’s family residence, that provides 24-hour care for six or  
24 fewer foster children who have mental disorders or developmental  
25 or physical disabilities and who require special care and supervision  
26 as a result of their disabilities. A small family home may accept  
27 children with special health care needs, pursuant to subdivision  
28 (a) of Section 17710 of the Welfare and Institutions Code. In  
29 addition to placing children with special health care needs, the  
30 department may approve placement of children without special  
31 health care needs, up to the licensed capacity.

32 (7) “Social rehabilitation facility” means any residential facility  
33 that provides social rehabilitation services for no longer than 18  
34 months in a group setting to adults recovering from mental illness  
35 who temporarily need assistance, guidance, or counseling. Program  
36 components shall be subject to program standards pursuant to  
37 Article 1 (commencing with Section 5670) of Chapter 2.5 of Part  
38 2 of Division 5 of the Welfare and Institutions Code.

39 (8) “Community treatment facility” means any residential  
40 facility that provides mental health treatment services to children

1 in a group setting and that has the capacity to provide secure  
2 containment. Program components shall be subject to program  
3 standards developed and enforced by the State Department of  
4 ~~Mental Health~~ *Health Care Services* pursuant to Section 4094 of  
5 the Welfare and Institutions Code.

6 Nothing in this section shall be construed to prohibit or  
7 discourage placement of persons who have mental or physical  
8 disabilities into any category of community care facility that meets  
9 the needs of the individual placed, if the placement is consistent  
10 with the licensing regulations of the department.

11 (9) “Full-service adoption agency” means any licensed entity  
12 engaged in the business of providing adoption services, that does  
13 all of the following:

14 (A) Assumes care, custody, and control of a child through  
15 relinquishment of the child to the agency or involuntary termination  
16 of parental rights to the child.

17 (B) Assesses the birth parents, prospective adoptive parents, or  
18 child.

19 (C) Places children for adoption.

20 (D) Supervises adoptive placements.

21 Private full-service adoption agencies shall be organized and  
22 operated on a nonprofit basis. As a condition of licensure to provide  
23 intercountry adoption services, a full-service adoption agency shall  
24 be accredited and in good standing according to Part 96 of Title  
25 22 of the Code of Federal Regulations, or supervised by an  
26 accredited primary provider, or acting as an exempted provider,  
27 in compliance with Subpart F (commencing with Section 96.29)  
28 of Part 96 of Title 22 of the Code of Federal Regulations.

29 (10) “Noncustodial adoption agency” means any licensed entity  
30 engaged in the business of providing adoption services, that does  
31 all of the following:

32 (A) Assesses the prospective adoptive parents.

33 (B) Cooperatively matches children freed for adoption, who are  
34 under the care, custody, and control of a licensed adoption agency,  
35 for adoption, with assessed and approved adoptive applicants.

36 (C) Cooperatively supervises adoptive placements with a  
37 full-service adoptive agency, but does not disrupt a placement or  
38 remove a child from a placement.

39 Private noncustodial adoption agencies shall be organized and  
40 operated on a nonprofit basis. As a condition of licensure to provide

1 intercountry adoption services, a noncustodial adoption agency  
2 shall be accredited and in good standing according to Part 96 of  
3 Title 22 of the Code of Federal Regulations, or supervised by an  
4 accredited primary provider, or acting as an exempted provider,  
5 in compliance with Subpart F (commencing with Section 96.29)  
6 of Part 96 of Title 22 of the Code of Federal Regulations.

7 (11) “Transitional shelter care facility” means any group care  
8 facility that provides for 24-hour nonmedical care of persons in  
9 need of personal services, supervision, or assistance essential for  
10 sustaining the activities of daily living or for the protection of the  
11 individual. Program components shall be subject to program  
12 standards developed by the State Department of Social Services  
13 pursuant to Section 1502.3.

14 (12) “Transitional housing placement provider” means an  
15 organization licensed by the department pursuant to Section  
16 1559.110 and Section 16522.1 of the Welfare and Institutions Code  
17 to provide transitional housing to foster children at least 16 years  
18 of age; and not more than 18 years of age, and nonminor  
19 dependents, as defined in subdivision (v) of Section 11400 of the  
20 Welfare and Institutions Code, to promote their transition to  
21 adulthood. A transitional housing placement provider shall be  
22 privately operated and organized on a nonprofit basis.

23 (b) “Department” or “state department” means the State  
24 Department of Social Services.

25 (c) “Director” means the Director of Social Services.

26 *SEC. 18. Section 1531.15 of the Health and Safety Code is*  
27 *amended to read:*

28 1531.15. (a) A licensee of an adult residential facility or group  
29 home for no more than 15 residents, that is eligible for and serving  
30 clients eligible for federal Medicaid funding and utilizing delayed  
31 egress devices pursuant to Section 1531.1, may install and utilize  
32 secured perimeters in accordance with the provisions of this  
33 section.

34 (b) As used in this section, “secured perimeters” means fences  
35 that meet the requirements prescribed by this section.

36 (c) Only individuals meeting all of the following conditions  
37 may be admitted to or reside in a facility described in subdivision

38 (a) utilizing secured perimeters:

39 (1) The person shall have a developmental disability as defined  
40 in Section 4512 of the Welfare and Institutions Code.

1 (2) The person shall be receiving services and case management  
2 from a regional center under the Lanterman Developmental  
3 Disabilities Services Act (Division 4.5 (commencing with Section  
4 4500) of the Welfare and Institutions Code).

5 (3) (A) The person shall be 14 years of age or older, except as  
6 specified in subparagraph (B).

7 (B) Notwithstanding subparagraph (A), a child who is at least  
8 10 years of age and less than 14 years of age may be placed in a  
9 licensed group home described in subdivision (a) using secured  
10 perimeters only if both of the following occur:

11 (i) A comprehensive assessment is conducted and an individual  
12 program plan meeting is convened to determine the services and  
13 supports needed for the child to receive services in a less restrictive,  
14 unlocked residential setting in California, and the regional center  
15 requests assistance from the State Department of Developmental  
16 Services' statewide specialized resource service to identify options  
17 to serve the child in a less restrictive, unlocked residential setting  
18 in California.

19 (ii) The regional center requests placement of the child in a  
20 licensed group home described in subdivision (a) using secured  
21 perimeters on the basis that the placement is necessary to prevent  
22 out-of-state placement or placement in a more restrictive, locked  
23 residential setting and the State Department of Developmental  
24 Services approves the request.

25 (4) The person is not a foster child under the jurisdiction of the  
26 juvenile court pursuant to Section 300, ~~301~~ 450, 601, or 602 of  
27 the Welfare and Institutions Code.

28 (5) An interdisciplinary team, through the individual program  
29 plan (IPP) process pursuant to Section 4646.5 of the Welfare and  
30 Institutions Code, shall have determined the person lacks hazard  
31 awareness or impulse control and, for his or her safety and security,  
32 requires the level of supervision afforded by a facility equipped  
33 with secured perimeters, and, but for this placement, the person  
34 would be at risk of admission to, or would have no option but to  
35 remain in, a more restrictive placement. The individual program  
36 planning team shall determine the continued appropriateness of  
37 the placement at least annually.

38 (d) The licensee shall be subject to all applicable fire and  
39 building codes, regulations, and standards, and shall receive  
40 approval by the county or city fire department, the local fire

1 prevention district, or the State Fire Marshal for the installed  
2 secured perimeters.

3 (e) The licensee shall provide staff training regarding the use  
4 and operation of the secured perimeters, protection of residents'  
5 personal rights, lack of hazard awareness and impulse control  
6 behavior, and emergency evacuation procedures.

7 (f) The licensee shall revise its facility plan of operation. These  
8 revisions shall be first be approved by the State Department of  
9 Developmental Services. The plan of operation shall not be  
10 approved by the State Department of Social Services unless the  
11 licensee provides certification that the plan was approved by the  
12 State Department of Developmental Services. The plan shall  
13 include, but not be limited to, all of the following:

14 (1) A description of how the facility is to be equipped with  
15 secured perimeters that are consistent with regulations adopted by  
16 the State Fire Marshal pursuant to Section 13143.6.

17 (2) A description of how the facility will provide training for  
18 staff.

19 (3) A description of how the facility will ensure the protection  
20 of the residents' personal rights consistent with Sections 4502,  
21 4503, and 4504 of the Welfare and Institutions Code, and any  
22 applicable personal rights provided in Title 22 of the California  
23 Code of Regulations.

24 (4) A description of how the facility will manage residents' lack  
25 of hazard awareness and impulse control behavior.

26 (5) A description of the facility's emergency evacuation  
27 procedures.

28 (g) Secured perimeters shall not substitute for adequate staff.

29 (h) Emergency fire and earthquake drills shall be conducted on  
30 each shift in accordance with existing licensing requirements, and  
31 shall include all facility staff providing resident care and  
32 supervision on each shift.

33 (i) Interior and exterior space shall be available on the facility  
34 premises to permit clients to move freely and safely.

35 (j) For the purpose of using secured perimeters, the licensee  
36 shall not be required to obtain a waiver or exception to a regulation  
37 that would otherwise prohibit the locking of a perimeter fence or  
38 gate.

39 (k) This section shall become operative only upon the ~~filing~~  
40 *publication in Title 17 of the California Code of Regulations* of

1 emergency regulations *filed* by the State Department of  
2 Developmental Services. These regulations shall be developed  
3 with stakeholders, including the State Department of Social  
4 Services, consumer advocates, and regional centers. The regulations  
5 shall establish program standards for homes that include secured  
6 perimeters, including requirements and timelines for the completion  
7 and updating of a comprehensive assessment of each consumer's  
8 needs, including the identification through the individual program  
9 plan process of the services and supports needed to transition the  
10 consumer to a less restrictive living arrangement, and a timeline  
11 for identifying or developing those services and supports. The  
12 regulations shall establish a statewide limit on the total number of  
13 beds in homes with secured perimeters. The adoption of these  
14 regulations shall be deemed to be an emergency and necessary for  
15 the immediate preservation of the public peace, health and safety,  
16 or general welfare.

17 *SEC. 19. Section 4094.7 of the Welfare and Institutions Code*  
18 *is amended to read:*

19 4094.7. (a) A community treatment facility may have both  
20 secure and nonsecure beds. However, the State Department of  
21 Health Care Services shall limit the total number of beds in  
22 community treatment facilities to not more than 400 statewide.  
23 The State Department of Health Care Services shall certify  
24 community treatment facilities in such a manner as to ensure an  
25 adequate dispersal of these facilities within the state. The State  
26 Department of Health Care Services shall ensure that there is at  
27 least one facility in each of the State Department of Social  
28 Services' ~~four~~ *five* regional licensing ~~divisions~~ *offices*.

29 (b) The State Department of Health Care Services shall notify  
30 the State Department of Social Services when a facility has been  
31 certified and has met the program standards pursuant to Section  
32 4094. The State Department of Social Services shall license a  
33 community treatment facility for a specified number of secure beds  
34 and a specified number of nonsecure beds. The number of secure  
35 and nonsecure beds in a facility shall be modified only with the  
36 approval of both the State Department of Social Services and the  
37 State Department of Health Care Services.

38 (c) The State Department of Health Care Services shall develop,  
39 with the advice of the State Department of Social Services, county  
40 representatives, providers, and interested parties, the criteria to be

1 used to determine which programs among applicant providers shall  
2 be licensed. The State Department of Health Care Services shall  
3 determine which agencies best meet the criteria, certify them in  
4 accordance with Section 4094, and refer them to the State  
5 Department of Social Services for licensure.

6 (d) Any community treatment facility proposing to serve  
7 seriously emotionally disturbed foster children shall be  
8 incorporated as a nonprofit organization.

9 *SEC. 20. Section 5405 of the Welfare and Institutions Code is*  
10 *amended to read:*

11 5405. (a) This section shall apply to each facility licensed by  
12 the State Department of Social Services, or its delegated agent, on  
13 or after January 1, 2003. For purposes of this section, “facility”  
14 means psychiatric health facilities, as defined in Section 1250.2  
15 of the Health and Safety Code, licensed pursuant to Chapter 9  
16 (commencing with Section 77001) of Division 5 of Title 22 of the  
17 California Code of Regulations and mental health rehabilitation  
18 centers licensed pursuant to Chapter 3.5 (commencing with Section  
19 781.00) of Division 1 of Title 9 of the California Code of  
20 Regulations.

21 (b) (1) (A) Prior to the initial licensure or first renewal of a  
22 license on or after January 1, 2003, of any person to operate or  
23 manage a facility specified in subdivision (a), the ~~department~~  
24 *applicant or licensee* shall submit fingerprint images and related  
25 information pertaining to the applicant or licensee to the  
26 Department of Justice for purposes of a criminal record check, as  
27 specified in paragraph (2), at the expense of the applicant or  
28 licensee. The Department of Justice shall provide the results of  
29 the criminal record check to the department. The department may  
30 take into consideration information obtained from or provided by  
31 other government agencies. The department shall determine  
32 whether the applicant or licensee has ever been convicted of a  
33 crime specified in subdivision (c). The ~~department~~ *applicant or*  
34 *licensee* shall submit fingerprint images and related information  
35 each time the position of administrator, manager, program director,  
36 or fiscal officer of a facility is filled and prior to actual employment  
37 for initial licensure or an individual who is initially hired on or  
38 after January 1, 2003. For purposes of this subdivision, “applicant”  
39 and “licensee” include the administrator, manager, program  
40 director, or fiscal officer of a facility.

1 (B) Commencing July 1, 2012, upon the employment of, or  
2 contract with or for, any direct care staff ~~the State Department of~~  
3 ~~Social Services~~, *the direct care staff person or licensee* shall submit  
4 fingerprint images and related information pertaining to the direct  
5 care staff person to the Department of Justice for purposes of a  
6 criminal record check, as specified in paragraph (2), at the expense  
7 of the direct care staff person or licensee. The Department of  
8 Justice shall provide the results of the criminal record check to the  
9 department. The department shall determine whether the direct  
10 care staff person has ever been convicted of a crime specified in  
11 subdivision (c). The department shall notify the licensee of these  
12 results. No direct client contact by the trainee or newly hired staff,  
13 or by any direct care contractor shall occur prior to clearance by  
14 the department unless the trainee, newly hired employee,  
15 contractor, or employee of the contractor is constantly supervised.

16 (C) Commencing July 1, 2012, any contract for services  
17 provided directly to patients or residents shall contain provisions  
18 to ensure that the direct services contractor submits to the ~~State~~  
19 ~~Department of Social Services~~ *Department of Justice* fingerprint  
20 images and related information pertaining to the direct services  
21 contractor for submission to the ~~Department of Justice~~ *State*  
22 *Department of Social Services* for purposes of a criminal record  
23 check, as specified in paragraph (2), at the expense of the direct  
24 services contractor or licensee. The Department of Justice shall  
25 provide the results of the criminal record check to the department.  
26 The department shall determine whether the direct services  
27 contractor has ever been convicted of a crime specified in  
28 subdivision (c). The department shall notify the licensee of these  
29 results.

30 (2) If the applicant, licensee, direct care staff person, or direct  
31 services contractor specified in paragraph (1) has resided in  
32 California for at least the previous seven years, the ~~State~~  
33 ~~Department of Social Services~~ *applicant, licensee, direct care staff*  
34 *person, or direct services contractor* shall only ~~require the~~  
35 ~~submission of~~ *submit* one set of fingerprint images and related  
36 information *to the Department of Justice*. The Department of  
37 Justice shall charge a fee sufficient to cover the reasonable cost of  
38 processing the fingerprint submission. Fingerprints and related  
39 information submitted pursuant to this subdivision include  
40 fingerprint images captured and transmitted electronically. When

1 requested, the Department of Justice shall forward one set of  
2 fingerprint images to the Federal Bureau of Investigation for the  
3 purpose of obtaining any record of previous convictions or arrests  
4 pending adjudication of the applicant, licensee, direct care staff  
5 person, or direct services contractor. The results of a criminal  
6 record check provided by the Department of Justice shall contain  
7 every conviction rendered against an applicant, licensee, direct  
8 care staff person, or direct services contractor, and every offense  
9 for which the applicant, licensee, direct care staff person, or direct  
10 services contractor is presently awaiting trial, whether the person  
11 is incarcerated or has been released on bail or on his or her own  
12 recognizance pending trial. The department shall request  
13 subsequent arrest notification from the Department of Justice  
14 pursuant to Section 11105.2 of the Penal Code.

15 (3) An applicant and any other person specified in this  
16 subdivision, as part of the background clearance process, shall  
17 provide information as to whether or not the person has any prior  
18 criminal convictions, has had any arrests within the past 12-month  
19 period, or has any active arrests, and shall certify that, to the best  
20 of his or her knowledge, the information provided is true. This  
21 requirement is not intended to duplicate existing requirements for  
22 individuals who are required to submit fingerprint images as part  
23 of a criminal background clearance process. Every applicant shall  
24 provide information on any prior administrative action taken  
25 against him or her by any federal, state, or local government agency  
26 and shall certify that, to the best of his or her knowledge, the  
27 information provided is true. An applicant or other person required  
28 to provide information pursuant to this section that knowingly or  
29 willfully makes false statements, representations, or omissions  
30 may be subject to administrative action, including, but not limited  
31 to, denial of his or her application or exemption or revocation of  
32 any exemption previously granted.

33 (c) (1) The State Department of Social Services shall deny any  
34 application for any license, suspend or revoke any existing license,  
35 and disapprove or revoke any employment or contract for direct  
36 services, if the applicant, licensee, employee, or direct services  
37 contractor has been convicted of, or incarcerated for, a felony  
38 defined in subdivision (c) of Section 667.5 of, or subdivision (c)  
39 of Section 1192.7 of, the Penal Code, within the preceding 10  
40 years.

1 (2) The application for licensure or renewal of any license shall  
2 be denied, and any employment or contract to provide direct  
3 services shall be disapproved or revoked, if the criminal record of  
4 the person includes a conviction in another jurisdiction for an  
5 offense that, if committed or attempted in this state, would have  
6 been punishable as one or more of the offenses referred to in  
7 paragraph (1).

8 (d) (1) The State Department of Social Services may approve  
9 an application for, or renewal of, a license, or continue any  
10 employment or contract for direct services, if the person has been  
11 convicted of a misdemeanor offense that is not a crime upon the  
12 person of another, the nature of which has no bearing upon the  
13 duties for which the person will perform as a licensee, direct care  
14 staff person, or direct services contractor. In determining whether  
15 to approve the application, employment, or contract for direct  
16 services, the department shall take into consideration the factors  
17 enumerated in paragraph (2).

18 (2) Notwithstanding subdivision (c), if the criminal record of a  
19 person indicates any conviction other than a minor traffic violation,  
20 the State Department of Social Services may deny the application  
21 for license or renewal, and may disapprove or revoke any  
22 employment or contract for direct services. In determining whether  
23 or not to deny the application for licensure or renewal, or to  
24 disapprove or revoke any employment or contract for direct  
25 services, the department shall take into consideration the following  
26 factors:

27 (A) The nature and seriousness of the offense under  
28 consideration and its relationship to the person's employment,  
29 duties, and responsibilities.

30 (B) Activities since conviction, including employment or  
31 participation in therapy or education, that would indicate changed  
32 behavior.

33 (C) The time that has elapsed since the commission of the  
34 conduct or offense and the number of offenses.

35 (D) The extent to which the person has complied with any terms  
36 of parole, probation, restitution, or any other sanction lawfully  
37 imposed against the person.

38 (E) Any rehabilitation evidence, including character references,  
39 submitted by the person.

40 (F) Employment history and current employer recommendations.

1 (G) Circumstances surrounding the commission of the offense  
2 that would demonstrate the unlikelihood of repetition.

3 (H) The granting by the Governor of a full and unconditional  
4 pardon.

5 (I) A certificate of rehabilitation from a superior court.

6 (e) Denial, suspension, or revocation of a license, or disapproval  
7 or revocation of any employment or contract for direct services  
8 specified in subdivision (c) and paragraph (2) of subdivision (d)  
9 are not subject to appeal, except as provided in subdivision (f).

10 (f) After a review of the record, the director may grant an  
11 exemption from denial, suspension, or revocation of any license,  
12 or disapproval of any employment or contract for direct services,  
13 if the crime for which the person was convicted was a property  
14 crime that did not involve injury to any person and the director  
15 has substantial and convincing evidence to support a reasonable  
16 belief that the person is of such good character as to justify issuance  
17 or renewal of the license or approval of the employment or contract.

18 (g) A plea or verdict of guilty, or a conviction following a plea  
19 of nolo contendere shall be deemed a conviction within the  
20 meaning of this section. The State Department of Social Services  
21 may deny any application, or deny, suspend, or revoke a license,  
22 or disapprove or revoke any employment or contract for direct  
23 services based on a conviction specified in subdivision (c) when  
24 the judgment of conviction is entered or when an order granting  
25 probation is made suspending the imposition of sentence.

26 (h) (1) For purposes of this section, “direct care staff” means  
27 any person who is an employee, contractor, or volunteer who has  
28 contact with other patients or residents in the provision of services.  
29 Administrative and licensed personnel shall be considered direct  
30 care staff when directly providing program services to participants.

31 (2) An additional background check shall not be required  
32 pursuant to this section if the direct care staff or licensee has  
33 received a prior criminal history background check while working  
34 in a mental health rehabilitation center or psychiatric health facility  
35 licensed by the State Department of Social Services, and provided  
36 the department has maintained continuous subsequent arrest  
37 notification on the individual from the Department of Justice since  
38 the prior criminal background check was initiated.

39 (3) When an application is denied on the basis of a conviction  
40 pursuant to this section, the State Department of Social Services

1 shall provide the individual whose application was denied with  
2 notice, in writing, of the specific grounds for the proposed denial.

3 *SEC. 21. Section 6500 of the Welfare and Institutions Code is*  
4 *amended to read:*

5 6500. (a) For purposes of this article, the following definitions  
6 shall apply:

7 (1) “Dangerousness to self or others” shall include, but not be  
8 limited to, a finding of incompetence to stand trial pursuant to the  
9 provisions of Chapter 6 (commencing with Section 1367) of Title  
10 10 of Part 2 of the Penal Code when the defendant has been charged  
11 with murder, mayhem, aggravated mayhem, a violation of Section  
12 207, 209, or 209.5 of the Penal Code in which the victim suffers  
13 intentionally inflicted great bodily injury, robbery perpetrated by  
14 torture or by a person armed with a dangerous or deadly weapon  
15 or in which the victim suffers great bodily injury, carjacking  
16 perpetrated by torture or by a person armed with a dangerous or  
17 deadly weapon or in which the victim suffers great bodily injury,  
18 a violation of subdivision (b) of Section 451 of the Penal Code, a  
19 violation of paragraph (1) or (2) of subdivision (a) of Section 262  
20 or paragraph (2) or (3) of subdivision (a) of Section 261 of the  
21 Penal Code, a violation of Section 288 of the Penal Code, any of  
22 the following acts when committed by force, violence, duress,  
23 menace, fear of immediate and unlawful bodily injury on the victim  
24 or another person: a violation of paragraph (1) or (2) of subdivision  
25 (a) of Section 262 of the Penal Code, a violation of Section 264.1,  
26 286, or 288a of the Penal Code, or a violation of subdivision (a)  
27 of Section 289 of the Penal Code; a violation of Section 459 of  
28 the Penal Code in the first degree, assault with intent to commit  
29 murder, a violation of Section 220 of the Penal Code in which the  
30 victim suffers great bodily injury, a violation of Section 18725,  
31 18740, 18745, 18750, or 18755 of the Penal Code, or if the  
32 defendant has been charged with a felony involving death, great  
33 bodily injury, or an act which poses a serious threat of bodily harm  
34 to another person.

35 (2) “Developmental disability” shall have the same meaning as  
36 defined in subdivision (a) of Section 4512.

37 (b) (1) A person with a developmental disability shall not be  
38 committed to the State Department of Developmental Services  
39 pursuant to this article unless he or she is a person described in  
40 paragraph (2) or (3) of subdivision (a) of Section 7505 and is

1 dangerous to self or others *or the person currently is a resident of*  
2 *a state developmental center or state-operated community facility*  
3 *pursuant to an order of commitment made pursuant to this article*  
4 *prior to July 1, 2012, and is being recommitted pursuant to*  
5 *paragraph (3) of this subdivision.*

6 (2) If the person with a developmental disability is in the care  
7 or treatment of a state hospital, developmental center, or other  
8 facility at the time a petition for commitment is filed pursuant to  
9 this article, proof of a recent overt act while in the care and  
10 treatment of a state hospital, developmental center, or other facility  
11 is not required in order to find that the person is a danger to self  
12 or others.

13 (3) *In the event subsequent petitions are filed with respect to a*  
14 *resident of a state developmental center or a state-operated*  
15 *community facility committed prior to July 1, 2012, the procedures*  
16 *followed and criteria for recommitment shall be the same as with*  
17 *the initial petition for commitment.*

18 ~~(3)~~

19 (4) In any proceedings conducted under the authority of this  
20 article, the person alleged to have a developmental disability shall  
21 be informed of his or her right to counsel by the court, and if the  
22 person does not have an attorney for the proceedings, the court  
23 shall immediately appoint the public defender or other attorney to  
24 represent him or her. The person shall pay the cost for the legal  
25 services if he or she is able to do so. At any judicial proceeding  
26 under the provisions of this article, allegations that a person has a  
27 developmental disability and is dangerous to himself or herself or  
28 to others shall be presented by the district attorney for the county  
29 unless the board of supervisors, by ordinance or resolution,  
30 delegates this authority to the county counsel. The clients' rights  
31 advocate for the regional center may attend any judicial  
32 proceedings to assist in protecting the individual's rights.

33 (c) (1) Any order of commitment made pursuant to this article  
34 with respect to a person described in paragraph (3) of subdivision  
35 (a) of Section 7505 shall expire automatically one year after the  
36 order of commitment is made. This section shall not be construed  
37 to prohibit any party enumerated in Section 6502 from filing  
38 subsequent petitions for additional periods of commitment. In the  
39 event subsequent petitions are filed, the procedures followed shall  
40 be the same as with an initial petition for commitment.

1 (2) Any order of commitment made pursuant to this article *on*  
2 *or after July, 2012*, with respect to *the admission to a*  
3 *developmental center of* a person described in paragraph (2) of  
4 subdivision (a) of Section 7505 shall expire automatically six  
5 months after the earlier of the order of commitment pursuant to  
6 this section or the order of a placement in a developmental center  
7 pursuant to Section 6506, unless the regional center, prior to the  
8 expiration of the order of commitment, notifies the court in writing  
9 of the need for an extension. The required notice shall state facts  
10 demonstrating that the individual continues to be in acute crisis as  
11 defined in paragraph (1) of subdivision (d) of Section 4418.7 and  
12 the justification for the requested extension, and shall be  
13 accompanied by the comprehensive assessment and plan described  
14 in subdivision (e) of Section 4418.7. An order granting an extension  
15 shall not extend the total period of commitment beyond one year,  
16 including any placement in a developmental center pursuant to  
17 Section 6506. If, prior to expiration of one year, the regional center  
18 notifies the court in writing of facts demonstrating that, due to  
19 circumstances beyond the regional center's control, the placement  
20 cannot be made prior to expiration of the extension, and the court  
21 determines that good cause exists, the court may grant one further  
22 extension of up to 30 days. The court may also issue any orders  
23 the court deems appropriate to ensure that necessary steps are taken  
24 to ensure that the individual can be safely and appropriately  
25 transitioned to the community in a timely manner. The required  
26 notice shall state facts demonstrating that the regional center has  
27 made significant progress implementing the plan described in  
28 subdivision (e) of Section 4418.7 and that extraordinary  
29 circumstances exist beyond the regional center's control that have  
30 prevented the plan's implementation. Nothing in this paragraph  
31 precludes the individual or any person acting on his or her behalf  
32 from making a request for release pursuant to Section 4800, or  
33 counsel for the individual from filing a petition for habeas corpus  
34 pursuant to Section 4801. Notwithstanding subdivision (a) of  
35 Section 4801, for purposes of this paragraph, judicial review shall  
36 be in the superior court of the county that issued the order of  
37 commitment pursuant to this section.

38 *SEC. 22. Section 10101.1 of the Welfare and Institutions Code,*  
39 *as amended by Section 9 of Chapter 69 of the Statutes of 1993, is*  
40 *amended to read:*

1 10101.1. (a) For the 1991–92 fiscal year and each fiscal year  
2 thereafter, the state’s share of the costs of the county services block  
3 grant and the in-home supportive services administration  
4 requirements shall be 70 percent of the actual nonfederal  
5 expenditures or the amount appropriated by the Legislature for  
6 that purpose, whichever is less.

7 (b) Federal funds received under Title 20 of the federal Social  
8 Security Act (42 U.S.C. Sec. 1397 et seq.) and appropriated by the  
9 Legislature for the county services block grant and the in-home  
10 supportive services administration shall be considered part of the  
11 state share of cost and not part of the federal expenditures for this  
12 purpose.

13 (c) *This section shall become operative only if Chapter 45 of*  
14 *the Statutes of 2012 is deemed inoperative pursuant to Section 15*  
15 *of that chapter.*

16 *SEC. 23. Section 10101.1 of the Welfare and Institutions Code,*  
17 *as amended by Section 4 of Chapter 45 of the Statutes of 2012, is*  
18 *amended to read:*

19 10101.1. (a) For the 1991–92 fiscal year and each fiscal year  
20 thereafter, the state’s share of the costs of the county services block  
21 grant and the in-home supportive services administration  
22 requirements shall be 70 percent of the actual nonfederal  
23 expenditures or the amount appropriated by the Legislature for  
24 that purpose, whichever is less.

25 (b) Federal funds received under Title 20 of the federal Social  
26 Security Act (42 U.S.C. Sec. 1397 et seq.) and appropriated by the  
27 Legislature for the county services block grant and the in-home  
28 supportive services administration shall be considered part of the  
29 state share of cost and not part of the federal expenditures for this  
30 purpose.

31 (c) For the period during which Section 12306.15 is operative,  
32 each county’s share of the nonfederal costs of the county services  
33 block grant and the in-home supportive services administration  
34 requirements as specified in subdivision (a) shall remain, but the  
35 County IHSS Maintenance of Effort pursuant to Section 12306.15  
36 shall be in lieu of that share.

37 (d) *This section shall become inoperative only if Chapter 45 of*  
38 *the Statutes of 2012 is deemed inoperative pursuant to Section 15*  
39 *of that chapter.*

1     *SEC. 24. Section 11265.45 of the Welfare and Institutions Code*  
2     *is amended to read:*

3     11265.45. (a) Notwithstanding Sections 11265.1, 11265.2,  
4     and 11265.3, a CalWORKs assistance unit that does not include  
5     an eligible adult shall not be subject to periodic reporting  
6     requirements other than the annual redetermination required in  
7     Section 11265. This subdivision shall not apply to a CalWORKs  
8     assistance unit in which the only eligible adult is under sanction  
9     in accordance with Section 11327.5.

10    (b) For an assistance unit described in subdivision (a), grant  
11    calculations may not be revised to adjust the grant amount during  
12    the year except as provided in subdivisions (c), (d), (e), and (f),  
13    ~~Section 11265.46~~ *11265.47* and as otherwise established by the  
14    department by regulation.

15    (c) Notwithstanding subdivision (b), statutes and regulations  
16    relating to the 48-month time limit, age limitations for children  
17    under Section 11253, and sanctions and financial penalties affecting  
18    eligibility or grant amount shall be applicable as provided in those  
19    statutes and regulations.

20    (d) If the county is notified that a child for whom assistance is  
21    currently being paid has been placed in a foster care home, the  
22    county shall discontinue aid to the child at the end of the month  
23    of placement. The county shall discontinue the case if the  
24    remaining assistance unit members are not otherwise eligible.

25    (e) If the county determines that a recipient is no longer a  
26    California resident, pursuant to Section 11100, the recipient shall  
27    be discontinued *with timely and adequate notice*. The county shall  
28    discontinue the case if the remaining assistance unit members are  
29    not otherwise eligible.

30    (f) If an overpayment has occurred, the county shall commence  
31    any applicable grant adjustment in accordance with Section 11004  
32    as of the first monthly grant after timely and adequate notice is  
33    provided.

34    (g) This section shall become operative on the first day of the  
35    first month following 90 days after the effective date of the act  
36    that added this section, or October 1, 2012, whichever is later.

37    *SEC. 25. Section 11265.47 of the Welfare and Institutions Code*  
38    *is amended to read:*

1 11265.47. (a) The department shall establish an income  
2 reporting threshold for CalWORKs assistance units described in  
3 subdivision (a) of Section 11265.45.

4 (b) The income reporting threshold described in subdivision (a)  
5 shall be the lesser of the following:

6 (1) Fifty-five percent of the monthly income for a family of  
7 three at the federal poverty level, plus the amount of income last  
8 used to calculate the recipient's monthly benefits.

9 (2) The amount likely to render the recipient ineligible for  
10 federal Supplemental Nutrition Assistance Program benefits.

11 (3) The amount likely to render the recipient ineligible for  
12 CalWORKs benefits.

13 (c) A recipient described in subdivision (a) of Section 11265.45  
14 shall report to the county, orally or in writing, within 10 days,  
15 when any of the following occurs:

16 (1) The monthly household income exceeds the threshold  
17 established pursuant to this section.

18 (2) Any change in household composition.

19 (3) The household address has changed.

20 (4) A drug felony conviction, as specified in Section 11251.3.

21 (5) An incidence of an individual fleeing prosecution or custody  
22 or confinement, or violating a condition or probation or parole, as  
23 specified in Section 11486.5.

24 (d) When a recipient described in subdivision (a) of Section  
25 11265.45 reports income or a household composition change  
26 pursuant to subdivision (c), the county shall redetermine eligibility  
27 and grant amounts as follows:

28 (1) If the recipient reports an increase in income or household  
29 composition change for the first through 11th months of a year,  
30 the county shall verify the report and determine the recipient's  
31 financial eligibility and grant amount.

32 (A) If the recipient is determined to be financially ineligible  
33 based on the increase in income or household composition change,  
34 the county shall discontinue the recipient with timely and adequate  
35 notice, effective at the end of the month in which the change  
36 occurred.

37 (B) If it is determined that the recipient's grant amount should  
38 decrease based on the increase in income, or increase or decrease  
39 based on a change in household composition, the county shall  
40 increase or reduce the recipient's grant amount for the remainder

1 of the year with timely and adequate notice, effective the first of  
2 the month following the month in which the change occurred.

3 (2) If the recipient reports an increase in income for the 12th  
4 month of a grant year, the county shall verify this report and  
5 consider this income in redetermining eligibility and the grant  
6 amount for the following year.

7 (e) During the year, a recipient described in subdivision (a) of  
8 Section 11265.45 may report to the county, orally or in writing,  
9 any changes in income that may increase the recipient's grant. ~~If~~  
10 ~~the reported change is for the first through 11th month of a grant~~  
11 ~~year and results in an increase in benefits, the county shall~~  
12 ~~redetermine the grant for the current month and any remaining~~  
13 ~~months in the year. If the reported change is for the 12th month~~  
14 ~~of the grant year, the county shall not redetermine the grant for~~  
15 ~~the current year, but shall redetermine the grant for the following~~  
16 ~~year. Increases in the grant that result from reported changes in~~  
17 ~~income shall be effective for the entire month in which the change~~  
18 ~~is reported and any remaining months in the year. If the reported~~  
19 ~~change in income results in an increase in benefits, the county~~  
20 ~~shall issue the increased benefit amount within 10 days of receiving~~  
21 ~~required verification.~~

22 (f) During the year, a recipient described in subdivision (a) of  
23 Section 11265.45 may request that the county discontinue the  
24 recipient's entire assistance unit or any individual member of the  
25 assistance unit who is no longer in the home or is an optional  
26 member of the assistance unit. If the recipient's request is verbal,  
27 the county shall provide a 10-day notice before discontinuing  
28 benefits. If the recipient's request is in writing, the county shall  
29 discontinue benefits effective the end of the month in which the  
30 request is made, and simultaneously shall issue a notice informing  
31 the recipient of the discontinuance.

32 (g) This section shall become operative on the first day of the  
33 first month following 90 days after the effective date of the act  
34 that added this section, or October 1, 2012, whichever is later.

35 *SEC. 26. Section 11322.8 of the Welfare and Institutions Code,*  
36 *as added by Section 16 of Chapter 47 of the Statutes of 2012, is*  
37 *amended to read:*

38 11322.8. (a) For a recipient required to participate in  
39 accordance with paragraph (1) of subdivision (a) of Section

1 11322.85, unless the recipient is otherwise exempt, the following  
2 shall apply:

3 (1) (A) An adult recipient in a one-parent assistance unit that  
4 does not include a child under six years of age shall participate in  
5 welfare-to-work activities for 30 hours each week.

6 (B) An adult recipient in a one-parent assistance unit that  
7 includes a child under six years of age shall participate in  
8 welfare-to-work activities for 20 hours each week.

9 (2) An adult recipient who is an unemployed parent, as defined  
10 in ~~Section 11201~~ 11201, shall participate in at least 35 hours of  
11 welfare-to-work activities each week. However, both parents in a  
12 two-parent assistance unit may contribute to the 35 hours.

13 (b) For a recipient required to participate in accordance with  
14 paragraph (3) of subdivision (a) of Section 11322.85, the following  
15 shall apply:

16 (1) Unless otherwise exempt, an adult recipient in a one-parent  
17 assistance unit shall participate in welfare-to-work activities for  
18 30 hours per week, subject to the special rules and limitations  
19 described in Section 607(c)(1)(A) of Title 42 of the United States  
20 Code as of the operative date of this section, as provided in  
21 subdivision (c).

22 (2) Unless otherwise exempt, an adult recipient in a one-parent  
23 assistance unit that includes a child under six years of age shall  
24 participate in welfare-to-work activities for 20 hours each week,  
25 as described in Section 607 (c)(2)(B) of Title 42 of the United  
26 States Code as of the operative date of this section, as provided in  
27 subdivision (c).

28 (3) Unless otherwise exempt, an adult recipient who is an  
29 unemployed parent, as defined in Section 11201, shall participate  
30 in welfare-to-work activities for 35 hours per week, subject to the  
31 special rules and limitations described in Section 607(c)(1)(B) of  
32 Title 42 of the United States Code as of the operative date of this  
33 section, as provided in subdivision (c).

34 (c) This section shall become operative on January 1, 2013.

35 *SEC. 27. Section 11325.21 of the Welfare and Institutions Code*  
36 *is amended to read:*

37 11325.21. (a) Any individual who is required to participate in  
38 welfare-to-work activities pursuant to this article shall enter into  
39 a written welfare-to-work plan with the county welfare department  
40 after assessment as required by subdivision (b) of Section 11320.1,

1 but no more than 90 days after the date that a recipient’s eligibility  
2 for aid is determined or the date the recipient is required to  
3 participate in welfare-to-work activities pursuant to Section  
4 11320.3. The recipient and the county may enter into a  
5 welfare-to-work plan as late as 90 days after the completion of the  
6 job search activity, as defined in subdivision (a) of Section 11320.1,  
7 if the job search activity is initiated within 30 days after the  
8 recipient’s eligibility for aid is determined. The plan shall include  
9 the activities and services that will move the individual into  
10 employment.

11 (b) The county shall allow the participant three working days  
12 after completion of the plan or subsequent amendments to the plan  
13 in which to evaluate and request changes to the terms of the plan.

14 (c) The plan shall be written in clear and understandable  
15 language, and have a simple and easy-to-read format.

16 (d) The plan shall contain at least all of the following general  
17 information:

18 (1) A general description of the program provided for in this  
19 article, including available program components and supportive  
20 services.

21 (2) A general description of the rights, duties, and  
22 responsibilities of program participants, including a list of the  
23 exemptions from the required participation under this article, the  
24 consequences of a refusal to participate in program components,  
25 and criteria for successful completion of the program.

26 (3) A description of the grace period required in paragraph (5)  
27 of subdivision (b) of Section 11325.22.

28 (e) The plan shall specify, and shall be amended to reflect  
29 changes in, the participant’s welfare-to-work activity, a description  
30 of services to be provided in accordance with Sections 11322.6,  
31 ~~and~~ 11322.8, *and* 11322.85, as needed, and specific requirements  
32 for successful completion of assigned activities including required  
33 hours of participation.

34 The plan shall also include a general description of supportive  
35 services pursuant to Section 11323.2 that are to be provided as  
36 necessary for the participant to complete assigned program  
37 activities.

38 (f) Any assignment to a program component shall be reflected  
39 in the plan or an amendment to the plan. The participant shall  
40 maintain satisfactory progress toward employment through the

1 methods set forth in the plan, and the county shall provide the  
2 services pursuant to Section 11323.2.

3 (g) This section shall not apply to individuals subject to Article  
4 3.5 (commencing with Section 11331) during the time that article  
5 is operative.

6 *SEC. 28. Section 11325.23 of the Welfare and Institutions Code*  
7 *is amended to read:*

8 11325.23. (a) (1) Except as provided in paragraph (2), any  
9 student who, at the time he or she is required to participate under  
10 this article pursuant to Section 11320.3, is enrolled in any  
11 undergraduate degree or certificate program that leads to  
12 employment may continue in that program if he or she is making  
13 satisfactory progress in that program, the county determines that  
14 continuing in the program is likely to lead to self-supporting  
15 employment for that recipient, and the welfare-to-work plan reflects  
16 that determination.

17 (2) Any individual who possesses a baccalaureate degree shall  
18 not be eligible to participate under this section unless the individual  
19 is pursuing a California regular classroom teaching credential in  
20 a college or university with an approved teacher credential  
21 preparation program.

22 (3) (A) Subject to the limitation provided in subdivision (f), a  
23 program shall be determined to lead to employment if it is on a  
24 list of programs that the county welfare department and local  
25 education agencies or providers agree lead to employment. The  
26 list shall be agreed to annually, with the first list completed no  
27 later than January 31, 1998. By January 1, 2000, all educational  
28 providers shall report data regarding programs on the list for the  
29 purposes of the report card established under Section 15037.1 of  
30 the Unemployment Insurance Code for the programs to remain on  
31 the list.

32 (B) For students not in a program on the list prepared under  
33 subparagraph (A), the county shall determine if the program leads  
34 to employment. The recipient shall be allowed to continue in the  
35 program if the recipient demonstrates to the county that the  
36 program will lead to self-supporting employment for that recipient  
37 and the documentation is included in the welfare-to-work plan.

38 (C) If participation in educational or vocational training, as  
39 determined by the number of hours required for classroom,  
40 laboratory, or internship activities, is not at least ~~32~~ 30 hours, *or*

1 *if subparagraph (B) of paragraph (1) of subdivision (a) of Section*  
2 *11322.8 applies, 20 hours, the county shall require concurrent*  
3 *participation in work activities pursuant to subdivisions (a) to (j),*  
4 *inclusive, of Section 11322.6 and Section 11325.22.*

5 (b) Participation in the self-initiated education or vocational  
6 training program shall be reflected in the welfare-to-work plan  
7 required by Section 11325.21. The welfare-to-work plan shall  
8 provide that whenever an individual ceases to participate in, refuses  
9 to attend regularly, or does not maintain satisfactory progress in  
10 the self-initiated program, the individual shall participate under  
11 this article in accordance with Section 11325.22.

12 (c) Any person whose previously approved self-initiated  
13 education or training program is interrupted for reasons that meet  
14 the good cause criteria specified in subdivision (f) of Section  
15 11320.3 may resume participation in the same program if the  
16 participant maintained good standing in the program while  
17 participating and the self-initiated program continues to meet the  
18 approval criteria.

19 (d) Supportive services reimbursement shall be provided for  
20 any participant in a self-initiated training or education program  
21 approved under this subdivision. This reimbursement shall be  
22 provided if no other source of funding for those costs is available.  
23 Any offset to supportive services payments shall be made in  
24 accordance with subdivision (e) of Section 11323.4.

25 (e) Any student who, at the time he or she is required to  
26 participate under this article pursuant to Section 11320.3, has been  
27 enrolled and is making satisfactory progress in a degree or  
28 certificate program, but does not meet the criteria set forth in  
29 subdivision (a), shall have until the beginning of the next  
30 educational semester or quarter break to continue his or her  
31 educational program if he or she continues to make satisfactory  
32 progress. At the time the educational break occurs, the individual  
33 is required to participate pursuant to Section 11320.1. A recipient  
34 not expected to complete the program by the next break may  
35 continue his or her education, provided he or she transfers at the  
36 end of the current quarter or semester to a program that qualifies  
37 under that subdivision, the county determines that participation is  
38 likely to lead to self-supporting employment of the recipient, and  
39 the welfare-to-work plan reflects that determination.

1 (f) Any degree, certificate, or vocational program offered by a  
2 private postsecondary training provider shall not be approved under  
3 this section unless the program is either approved or exempted by  
4 the appropriate state regulatory agency and the program is in  
5 compliance with all other provisions of law.

6 *SEC. 29. Section 11334.8 of the Welfare and Institutions Code*  
7 *is amended to read:*

8 11334.8. (a) Notwithstanding any other law, this article shall  
9 be fully operative commencing April 1, 2013. For the period of  
10 July 1, 2012, to March 31, 2013, inclusive, this article shall be  
11 operative in accordance with the provisions described in  
12 subdivision (b).

13 (b) Commencing July 1, 2012, until March 31, 2013, all of the  
14 following shall apply:

15 (1) For the 2012–13 fiscal year, counties shall be provided with  
16 full or partial year funding, depending on the pace of their phase-in  
17 to full implementation of the program by April 1, 2013, as  
18 determined by the department, in collaboration with county welfare  
19 directors.

20 (2) Recipients of aid, as defined in Section 11331.5, shall be  
21 required to participate in Cal-Learn Program intensive case  
22 management services, as defined in subdivision (a) of Section  
23 11332.5, only in counties where those services are available.

24 (3) ~~A pregnant woman with no other children who was~~  
25 ~~determined to be eligible for aid in the first or second trimester of~~  
26 ~~her pregnancy for purposes of participating in the Cal-Learn~~  
27 ~~Program prior to July 1, 2011, shall be eligible to receive aid upon~~  
28 ~~verification of pregnancy as long as she remains otherwise eligible~~  
29 ~~for aid under this chapter. Notwithstanding subdivision (b) of~~  
30 ~~Section 11450, for the transitional phase-in period of July 1, 2012,~~  
31 ~~to March 31, 2013, inclusive, aid shall also be paid to a pregnant~~  
32 ~~woman with no other children in the amount which would otherwise~~  
33 ~~be paid to one person under subdivision (a) of Section 11450 at~~  
34 ~~any time after verification of pregnancy if the pregnant woman is~~  
35 ~~eligible for, or would be eligible for, the Cal-Learn Program~~  
36 ~~described in Article 3.5 (commencing with Section 11331) and if~~  
37 ~~the mother, and child, if born, would have qualified for aid under~~  
38 ~~this chapter.~~

1 (c) Each recipient who qualifies for benefits under this article  
 2 shall be entitled to benefits to the degree that they are provided by  
 3 the recipient’s county.

4 (d) This section shall remain in effect only until April 1, 2013,  
 5 and as of that date is repealed, unless a later enacted statute, that  
 6 is enacted before April 1, 2013, deletes or extends that date.

7 *SEC. 30. Section 11451.5 of the Welfare and Institutions Code,*  
 8 *as added by Section 26 of Chapter 47 of the Statutes of 2012, is*  
 9 *amended to read:*

10 11451.5. (a) The following income, ~~except for recipients~~  
 11 ~~described in subdivision (a) of Section 11265.45, except as~~  
 12 ~~provided by subdivision (f) of Section 11322.6, determined for~~  
 13 ~~the semiannual period pursuant to Sections 11265.2 and 11265.3,~~  
 14 shall be exempt from the calculation of the income of the family  
 15 for purposes of subdivision (a) of Section 11450:

16 (1) If disability-based unearned income does not exceed two  
 17 hundred twenty-five dollars (\$225), both of the following amounts:

18 (A) All disability-based unearned income, plus any amount of  
 19 not otherwise exempt earned income equal to the amount of the  
 20 difference between the amount of disability-based unearned income  
 21 and two hundred twenty-five dollars (\$225).

22 (B) Fifty percent of all not otherwise exempt earned income in  
 23 excess of the amount applied to meet the differential applied in  
 24 subparagraph (A).

25 (2) If disability-based unearned income exceeds two hundred  
 26 twenty-five dollars (\$225), both of the following amounts:

27 (A) All of the first two hundred twenty-five dollars (\$225) in  
 28 disability-based unearned income.

29 (B) Fifty percent of all earned income.

30 (b) For purposes of this section:

31 (1) Earned income means gross income received as wages,  
 32 salary, employer-provided sick leave benefits, commissions, or  
 33 profits from activities such as a business enterprise or farming in  
 34 which the recipient is engaged as a self-employed individual or as  
 35 an employee.

36 (2) Disability-based unearned income means state disability  
 37 insurance benefits, private disability insurance benefits, temporary  
 38 workers’ compensation benefits, and social security disability  
 39 benefits.

1 (3) Unearned income means any income not described in  
2 paragraph (1) or (2).

3 (c) This section shall become operative on October 1, 2013.

4 *SEC. 31. Section 12300.5 of the Welfare and Institutions Code*  
5 *is amended to read:*

6 12300.5. (a) The California In-Home Supportive Services  
7 Authority, hereafter referred to as the Statewide Authority,  
8 established pursuant to Section 6531.5 of the Government Code,  
9 shall be the entity authorized to meet and confer in good faith  
10 regarding wages, benefits, and other terms and conditions of  
11 employment in accordance with Title 23 (commencing with Section  
12 110000) of the Government Code, with representatives of  
13 recognized employee organizations for any individual provider  
14 who is employed by a recipient of in-home supportive services  
15 described in Section 12300 *after the county implementation date*  
16 *as described in subdivision (a) of Section 12300.7.*

17 (b) The Statewide Authority and the Department of Human  
18 Resources and other state departments may enter into a  
19 memorandum of understanding or other agreement to have the  
20 Department of Human Resources meet and confer on behalf of the  
21 Statewide Authority for the purposes described in subdivision (a)  
22 or to provide the Statewide Authority with other services,  
23 including, but not limited to, administrative and legal services.

24 (c) ~~Neither the state nor~~ *The state, the Statewide Authority, or*  
25 *any county that has met the conditions in Section 12300.7 shall not*  
26 *be deemed to be the employer of any individual provider who is*  
27 *employed by a recipient of in-home supportive services as*  
28 *described in Section 12300 for purposes of liability due to the*  
29 *negligence or intentional torts of the individual provider.*

30 *SEC. 32. Section 12300.7 of the Welfare and Institutions Code*  
31 *is amended to read:*

32 12300.7. (a) No sooner than March 1, 2013, the California  
33 In-Home Supportive Services Authority shall assume the  
34 responsibilities set forth in Title 23 (commencing with Section  
35 110000) of the Government Code in a county or city and county  
36 upon notification by the Director of Health Care Services that the  
37 enrollment of eligible Medi-Cal beneficiaries described in Sections  
38 14132.275, 14182.16, and 14182.17 ~~have~~ *has* been completed in  
39 that county or city and county.

1 (b) A county or city and county, subject to subdivision (a) and  
 2 upon notification from the Director of Health Care Services, shall  
 3 do ~~any one or both~~ of the following:

4 ~~(1) Continue to have its public authority perform the functions~~  
 5 ~~set forth in the county ordinance existing at the time of the~~  
 6 ~~notification pursuant to subdivision (a) and established pursuant~~  
 7 ~~to Section 12301.6, excluding subdivision (c) of that section.~~

8 ~~(2) Continue to have the entity perform the functions in the~~  
 9 ~~existing contract at the time of the notification pursuant to~~  
 10 ~~subdivision (a) established pursuant to Section 12301.6, excluding~~  
 11 ~~subdivision (c) of that section.~~

12 *(1) Have the entity that performed functions set forth in the*  
 13 *county ordinance or contract in effect at the time of the notification*  
 14 *pursuant to subdivision (a) and established pursuant to Section*  
 15 *12301.6, excluding subdivision (c) of that section, continue to*  
 16 *perform those functions.*

17 ~~(3)~~

18 (2) Assume the functions performed by ~~an~~ *the* entity ~~or public~~  
 19 ~~authority, at the time of the notification pursuant to subdivision~~  
 20 ~~(a), pursuant to Section 12301.6, excluding subdivision (c) and~~  
 21 ~~paragraph (2) of subdivision (i) of that section.~~

22 (c) If a county or city and county assumes the functions  
 23 described in paragraph ~~(3)~~ (2) of subdivision (b), it may do any of  
 24 the following:

25 ~~(1) Contract~~ *Establish or contract* for the performance of any  
 26 or all of the functions assumed.

27 (2) Contract with an entity pursuant to Section 12301.6 for the  
 28 performance of any or all functions assumed.

29 ~~(3) Establish a public authority pursuant to Section 12301.6 for~~  
 30 ~~the performance of any functions assumed.~~

31 *SEC. 33. Section 12302.21 of the Welfare and Institutions Code*  
 32 *is amended to read:*

33 12302.21. (a) For purposes of providing cost-efficient workers’  
 34 compensation coverage for in-home supportive services providers  
 35 under this article *and paragraph (2) of subdivision (e) of Section*  
 36 *14186.35*, the department shall assume responsibility for providing  
 37 workers’ compensation coverage for employees of nonprofit  
 38 agencies and proprietary agencies who provide in-home supportive  
 39 services pursuant to contracts with counties *and managed care*  
 40 *health plans*. The workers’ compensation coverage provided for

1 these employees shall be provided on the same terms as provided  
2 to providers under Section 12302.2 and 12302.5.

3 (b) A county that has existing contracts with nonprofit agencies  
4 or proprietary agencies whose employees will be provided workers'  
5 compensation coverage by the department pursuant to subdivision  
6 (a), shall reduce the contract hourly rate by fifty cents (\$0.50) per  
7 hour, effective on the date that the department implements this  
8 section.

9 *SEC. 34. Section 12302.25 of the Welfare and Institutions Code*  
10 *is amended to read:*

11 12302.25. (a) On or before January 1, 2003, each county shall  
12 act as, or establish, an employer for in-home supportive service  
13 providers under Section 12302.2 for the purposes of Chapter 10  
14 (commencing with Section 3500) of Division 4 of Title 1 of the  
15 Government Code and other applicable state or federal laws, *except*  
16 *as provided in Title 23 (commencing with Section 110000) of the*  
17 *Government Code*. Each county may utilize a public authority or  
18 nonprofit consortium as authorized under Section 12301.6, the  
19 contract mode as authorized under Sections 12302 and 12302.1,  
20 county administration of the individual provider mode as authorized  
21 under Sections 12302 and 12302.2 for purposes of acting as, or  
22 providing, an employer under Chapter 10 (commencing with  
23 Section 3500) of Division 4 of Title 1 of the Government Code,  
24 county civil service personnel as authorized under Section 12302,  
25 or mixed modes of service authorized pursuant to this article and  
26 may establish regional agreements in establishing an employer for  
27 purposes of this subdivision for providers of in-home supportive  
28 services. Within 30 days of the effective date of this section, the  
29 department shall develop a timetable for implementation of this  
30 subdivision to ensure orderly compliance by counties. Recipients  
31 of in-home supportive services shall retain the right to choose the  
32 individuals that provide their care and to recruit, select, train, reject,  
33 or change any provider under the contract mode or to hire, fire,  
34 train, and supervise any provider under any other mode of service.  
35 Upon request of a recipient, and in addition to a county's selected  
36 method of establishing an employer for in-home supportive service  
37 providers pursuant to this subdivision, counties with an IHSS  
38 caseload of more than 500 shall be required to offer an individual  
39 provider employer option.

1 (b) Nothing in this section shall prohibit any negotiations or  
2 agreement regarding collective bargaining or any wage and benefit  
3 enhancements.

4 (c) Nothing in this section shall be construed to affect the state's  
5 responsibility with respect to the state payroll system,  
6 unemployment insurance, or workers' compensation and other  
7 provisions of Section 12302.2 for providers of in-home supportive  
8 services.

9 (d) Prior to implementing subdivision (a), a county may establish  
10 an advisory committee as authorized by Section 12301.3 and solicit  
11 recommendations from the advisory committee on the preferred  
12 mode or modes of service to be utilized in the county for in-home  
13 supportive services.

14 (e) If a county establishes an in-home supportive services  
15 advisory committee pursuant to Section 12301.3, the county shall  
16 take into account the advice and recommendations of the committee  
17 prior to making policy and funding decisions about the program  
18 on an ongoing basis.

19 (f) In implementing and administering this section, no county,  
20 public authority, nonprofit consortium, contractor, or a combination  
21 thereof, that delivers in-home supportive services shall reduce the  
22 hours of service for any recipient below the amount determined  
23 to be necessary under the uniform assessment guidelines  
24 established by the department.

25 (g) Any agreement between a county and an entity acting as an  
26 employer under subdivision (a) shall include a provision that  
27 requires that funds appropriated by the state for wage increases  
28 for in-home supportive services providers be used exclusively for  
29 that purpose. Counties or the state may undertake audits of the  
30 entities acting as employers under the terms of subdivision (a) to  
31 verify compliance with this subdivision.

32 (h) On or before January 15, 2003, each county shall provide  
33 the department with documentation that demonstrates compliance  
34 with the January 1, 2003, deadline specified in subdivision (a).  
35 The documentation shall include, but is not limited to, any of the  
36 following:

37 (1) The public authority ordinance and employee relations  
38 procedures.

39 (2) The invitations to bid and requests for proposal for contract  
40 services for the contract mode.

1 (3) An invitation to bid and request for proposal for the operation  
2 of a nonprofit consortium.

3 (4) A county board of supervisors' resolution resolving that the  
4 county has chosen to act as the employer required by subdivision  
5 (a) either by utilizing county employees, as authorized by Section  
6 12302, to provide in-home supportive services or through county  
7 administration of individual providers.

8 (5) Any combination of the documentation required under  
9 paragraphs (1) to (4), inclusive, that reflects the decision of a  
10 county to provide mixed modes of service as authorized under  
11 subdivision (a).

12 (i) Any county that is unable to provide the documentation  
13 required by subdivision (h) by January 15, 2003, may provide, on  
14 or before that date, a written notice to the department that does all  
15 of the following:

16 (1) Explains the county's failure to provide the required  
17 documentation.

18 (2) Describes the county's plan for coming into compliance  
19 with the requirements of this section.

20 (3) Includes a timetable for the county to come into compliance  
21 with this section, but in no case shall the timetable extend beyond  
22 March 31, 2003.

23 (j) Any county that fails to provide the documentation required  
24 by subdivision (h) and also fails to provide the written notice as  
25 allowed under subdivision (i), shall be deemed by operation of  
26 law to be the employer of IHSS individual providers for purposes  
27 of Chapter 10 (commencing with Section 3500) of Division 4 of  
28 Title 1 of the Government Code as of January 15, 2003.

29 (k) Any county that provides a written notice as allowed under  
30 subdivision (i), but fails to provide the documentation required  
31 under subdivision (h) by March 31, 2003, shall be deemed by  
32 operation of law to be the employer of IHSS individual providers  
33 for purposes of Chapter 10 (commencing with Section 3500) of  
34 Division 4 of Title 1 of the Government Code as of April 1, 2003.

35 (l) Any county deemed by operation of law, pursuant to  
36 subdivision (j) or (k), to be the employer of IHSS individual  
37 providers for purposes of Chapter 10 (commencing with Section  
38 3500) of Division 4 of Title 1 of the Government Code shall  
39 continue to act in that capacity until the county notifies the  
40 department that it has established another employer as permitted

1 by this section, and has provided the department with the  
2 documentation required under subdivision (h) demonstrating the  
3 change.

4 *SEC. 35. Section 12302.6 of the Welfare and Institutions Code*  
5 *is amended to read:*

6 12302.6. (a) A managed care health plan may enter into  
7 contracts pursuant to paragraph (14) of subdivision (a) of Section  
8 14186.35 solely in the manner prescribed in this section.

9 (b) For purposes of this section:

10 (1) "Agency" means a city, county, city and county agency,  
11 local health district, ~~nonprofit entity, or a proprietary agency, or~~  
12 ~~an entity~~ that has or seeks a contract to provide in-home supportive  
13 services pursuant to Section 12301.6 or 12302 or this article.

14 (2) "Contract provider" means any person employed by an  
15 agency for the provision of services listed in this ~~subdivision~~  
16 ~~section~~.

17 (3) "County" means a political unit, unless otherwise indicated.

18 (4) "Department" means the State Department of Social  
19 Services.

20 (5) "Individual provider" means any person authorized to  
21 provide in-home supportive services under this article and Sections  
22 14132.95, 14132.952, and 14132.956, pursuant to the individual  
23 provider mode referenced in Section 12302.2. As used in this  
24 paragraph, "individual provider" shall not include any person  
25 providing in-home supportive services pursuant to a  
26 county-employed homemaker mode ~~or any person employed by~~  
27 ~~an agency a contract provider~~.

28 (6) "Individual provider rate" means the combined total rate for  
29 wages and benefits for individual providers, as approved by the  
30 Statewide Authority or its delegate.

31 (7) "Managed care health plan" shall have the same meaning  
32 as set forth in Section 14186.1.

33 (8) "Qualified agency" means an agency that has been certified  
34 by the department.

35 (9) "Responsible party" means an officer or director of the  
36 applicant, a shareholder with a beneficial interest in the applicant  
37 exceeding 10 percent, or the person who will be primarily  
38 responsible for any contract with the managed care health plan.

1 (10) “Statewide Authority” means the California In-Home  
2 Supportive Services Authority established pursuant to Section  
3 6531.5 of the Government Code.

4 (c) Managed care health plans shall assume the authority granted  
5 to counties pursuant to Section 12302 to contract for the provision  
6 of in-home supportive services with an agency.

7 (1) (A) Managed care health plans shall assume the authority  
8 as described in subdivision (a) only upon ~~their~~ *the* integration of  
9 *the In-Home Supportive Services Program* into Medi-Cal managed  
10 care pursuant to Article 5.7 (commencing with Section 14186) of  
11 Chapter 7 *in the counties participating in the demonstration project*  
12 *authorized under Section 14132.275. For individuals exempt from*  
13 *the provisions of Article 5.7 (commencing with Section 14186) of*  
14 *Chapter 7, as specified in subdivision (c) of Section 14186.2, this*  
15 *section shall not apply, and Section 12302 shall apply.*

16 (B) If, at the time a managed care health plan assumes  
17 contracting authority pursuant to this subdivision with respect to  
18 a particular geographic area, there is an existing contract between  
19 the county and an agency for the provision of in-home supportive  
20 services, the managed care health plan shall enter into a contract  
21 with the county to continue providing the services, and the county  
22 shall maintain its existing contract with the agency for the provision  
23 of in-home supportive services until such time as that contract is  
24 due to expire. ~~Counties~~ *Agencies* that have these existing contracts  
25 with ~~agencies~~ *a county* at the time a managed care health plan  
26 assumes contracting authority pursuant to this subdivision shall  
27 automatically be certified as qualified agencies.

28 (2) An agency that is a county, or has an existing contract with  
29 a county, as of the date that the managed care health plan in the  
30 corresponding geographic area assumes contracting authority with  
31 respect to agencies, shall be deemed to be certified as a qualified  
32 agency with respect to the geographic area in which the agency  
33 has a contract to provide in-home supportive services with respect  
34 to the type of in-home supportive services provided pursuant to  
35 that contract. Where a county has an existing contract with an  
36 agency, the certification provided for in this subdivision shall  
37 remain in effect until the triennial deadline established by  
38 paragraph (3) of subdivision (d) that occurs no less than one year  
39 after the expiration of the contract in effect at the time that the  
40 managed care health plan assumes contracting authority with

1 respect to agencies. However, if an agency that is party to such a  
2 contract seeks to expand the geographic area in which it is certified  
3 to provide services or seeks to expand the types of services for  
4 which it is certified, it must submit an application in accordance  
5 with ~~Section 12342.3~~ *subdivision (d)*.

6 (d) An agency contracting with a managed care health plan for  
7 the provision of in-home supportive services shall be certified as  
8 a qualified agency by the department in consultation with the State  
9 Department of Health Care Services.

10 (1) The certification of an agency as a qualified agency shall  
11 be with respect to a specific geographic area and an identified  
12 category of services.

13 (2) *The department shall develop an application form and*  
14 *establish the conditions to be met for certification as a qualified*  
15 *agency.*

16 ~~(2)~~

17 (3) An agency seeking certification as a qualified agency shall  
18 submit to the department a verified application showing that it  
19 satisfies the conditions *established by the department, pursuant*  
20 *to this subdivision, and providing shall provide* the information  
21 ~~specified. The department shall develop the form and establish the~~  
22 ~~conditions to be met. The verified application shall include the~~  
23 ~~specified, which shall include all of the following:~~

24 (A) *The three most recent audited financial statements or other*  
25 *independently verified documentation showing that the applicant*  
26 *maintains liquid assets sufficient to cover 180 days of in-home*  
27 *supportive services' operating expenses, evidence expenses. A*  
28 *nonprofit or public entity applicant may satisfy this requirement*  
29 *by providing a letter of support signed by a representative of the*  
30 *public entity or managed care organization responsible for the*  
31 *majority of the applicant's revenue stating its intent to continue*  
32 *to provide funding for IHSS in the event there is a disruption in*  
33 *the applicant's revenue.*

34 (B) *Evidence of liability and workers' compensation insurance,*  
35 ~~*and evidence insurance.*~~

36 (C) *Evidence that the applicant has not been the subject of*  
37 *bankruptcy proceedings in the last five years.*

38 ~~(3)~~

39 (4) The department shall establish an annual deadline for  
40 submitting applications for certification pursuant to this

1 subdivision. The department shall also establish a triennial deadline  
2 for submitting renewals of certification pursuant to this subdivision.  
3 The department shall process and approve or deny applications  
4 within 120 days of receipt of a completed application.

5 ~~(4)~~

6 (5) In determining whether an agency may be certified as a  
7 qualified agency, the department, in consultation with the State  
8 Department of Health Care Services, shall consider documents  
9 and evidence to ensure that, among other things identified by the  
10 department, the agency:

11 (A) Guarantees the continuity and reliability of services to  
12 recipients.

13 (B) Guarantees the supervision of contract providers.

14 (C) Guarantees that each contract provider has been screened  
15 in accordance with Sections 12305.81 and 12305.87.

16 (D) Guarantees that each contract provider is capable of and is  
17 providing the service authorized.

18 (E) Complies with applicable rules and regulations regarding  
19 civil rights ~~and those rights' relations with contract providers.~~

20 (F) Is capable of providing high-quality and reliable in-home  
21 supportive services.

22 (G) Is capable of complying with this section, any rules or  
23 regulations promulgated under this section, and any applicable  
24 federal rules and regulations.

25 (H) Has not demonstrated a pattern and practice of violations  
26 of state or federal laws and regulations based on any available  
27 information.

28 ~~(5)~~

29 (6) An application for certification under this subdivision may  
30 be denied by the department if the department determines that the  
31 applying agency or a responsible party has violated a law or  
32 regulation that is substantially related to the qualifications or duties  
33 of the applying agency or is substantially related to the functions  
34 of the business for which certification was, or is to be, issued, or  
35 on the ground that an applying agency knowingly made a false  
36 statement of fact required to be revealed in an application for  
37 certification.

38 ~~(6)~~

1 (7) The department shall develop a written appeal process for  
 2 any agency dissatisfied with the decision of the department  
 3 regarding certification.

4 (e) (1) A qualified agency shall submit verified cost reports to  
 5 the department documenting that the qualified agency is in  
 6 compliance with subdivision (i). The cost reports shall be verified  
 7 by the responsible party and by a representative of a certified public  
 8 accounting firm.

9 (2) The verified cost reports required by paragraph (1) shall be  
 10 submitted within 90 calendar days after the end of each year and  
 11 within 60 calendar days after any change in compensation  
 12 negotiated by the Statewide Authority for individual providers has  
 13 gone into effect.

14 (f) A managed care health plan that has entered into a contract  
 15 in the manner prescribed in this section shall notify the department  
 16 within 30 days if the contract between the managed care health  
 17 plan and the qualified agency is suspended or terminated for any  
 18 reason.

19 ~~(g) Except as provided in subdivision (h), a~~ A recipient of  
 20 in-home supportive services may only be referred to a qualified  
 21 agency by the county, managed care health plan, or care  
 22 coordination teams. Qualified agencies, *counties, and managed*  
 23 *care health plans* shall establish procedures to ensure contract  
 24 limitations on caseload *specified in subdivision (j)* are being met  
 25 and there is coordination of information between managed care  
 26 health plans, qualified agencies, counties, and the department.  
 27 When a recipient has been referred ~~to~~ *by* the managed care health  
 28 plan, the qualified agency may provide services in the following  
 29 circumstances:

30 (1) It has been determined that the recipient is unable to function  
 31 as the employer of the provider due to dementia, cognitive  
 32 impairment, or other similar issues.

33 (2) The recipient has been identified to need services under this  
 34 mode by the care coordination team created pursuant to paragraph  
 35 (3) of subdivision (b) of Section 14186.

36 (3) The recipient is unable to retain a provider due to geographic  
 37 isolation and distance, authorized hours, or other reasons.

38 (h) When a recipient who is severely impaired, as described in  
 39 *subdivision (b) of Section 12303.4*, is referred to a qualified agency  
 40 by a managed care health plan, the county, or the care coordination

1 team, the qualified agency may provide emergency backup  
2 services, as needed, when a provider is unavailable due to vacation,  
3 illness, or other extraordinary circumstances, or the recipient is in  
4 the process of hiring or replacing a provider. Qualified agencies  
5 shall establish procedures to ensure contract limitations on caseload  
6 are being met and there is coordination of information between  
7 managed care health plans, qualified agencies, counties, and the  
8 department. ~~Service~~

9 ~~(i) Service hours provided under the emergency backup criteria~~  
10 ~~this section shall be deducted from the in-home supportive services~~  
11 ~~recipient's current authorized hours of services and on an~~  
12 ~~hour-to-hour basis coordinated with the county and the department~~  
13 ~~to ensure hours are accurately captured and not duplicated per~~  
14 ~~in-home supportive services program requirements.~~

15 ~~(i)~~

16 (j) Wages and benefits for contract providers for their provision  
17 of in-home supportive services shall not be less than the individual  
18 provider rate negotiated by the Statewide Authority for the county  
19 where services are provided.

20 ~~(j)~~

21 (k) Any contract entered into between a managed care health  
22 plan and a qualified agency shall provide for a minimum amount  
23 of service utilization and shall be approved by the department. In  
24 no case, however, shall in-home supportive services recipients  
25 referred for services exceed 5 percent of the *in-home supportive*  
26 *services* caseload in the county where services are provided.

27 ~~(k)~~

28 (l) The department shall establish reasonable fees to be paid by  
29 agencies and qualified agencies for administering the provisions  
30 of this section, including, but not limited to, fees associated with  
31 processing applications for certification and renewals of  
32 certification, and fees associated with monitoring and enforcing  
33 compliance, including any fees reflecting the costs associated with  
34 investigating complaints, to the extent permissible by law. These  
35 fees shall be sufficient to cover the department's reasonable costs  
36 incurred in administering the provisions of this section.

37 (m) *The state shall be immune from liability resulting from the*  
38 *state's implementation of this section or from the negligence or*  
39 *intentional torts of a contract provider providing services pursuant*  
40 *to this section.*

1     (†)  
 2     (n) Notwithstanding the rulemaking provisions of the  
 3 Administrative Procedure Act (Chapter 3.5 (commencing with  
 4 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
 5 Code), the department may implement, interpret, or make specific  
 6 this section by means of all-county letters, or similar instructions,  
 7 without taking regulatory action. Prior to issuing any letter or  
 8 similar instrument authorized pursuant to this section, the  
 9 department shall notify and consult with stakeholders, including  
 10 beneficiaries, providers, and advocates.

11     *SEC. 36. Section 12306 of the Welfare and Institutions Code,*  
 12 *as amended by Section 4 of Chapter 939 of the Statutes of 1992,*  
 13 *is amended to read:*

14     12306. (a) The state and counties shall share the annual cost  
 15 of providing services under this article as specified in this section.

16     (b) Except as provided in subdivisions (c) and (d), the state shall  
 17 pay to each county, from the General Fund and any federal funds  
 18 received under Title XX of the federal Social Security Act available  
 19 for that purpose, 65 percent of the cost of providing services under  
 20 this article, and each county shall pay 35 percent of the cost of  
 21 providing those services.

22     (c) For services eligible for federal funding pursuant to Title  
 23 XIX of the federal Social Security Act under the Medi-Cal program  
 24 and, except as provided in subdivisions (b) and (d) the state shall  
 25 pay to each county, from the General Fund and any funds available  
 26 for that purpose 65 percent of the nonfederal cost of providing  
 27 services under this article, and each county shall pay 35 percent  
 28 of the nonfederal cost of providing those services.

29     (d) (1) For the period of July 1, 1992, to June 30, 1994,  
 30 inclusive, the state's share of the cost of providing services under  
 31 this article shall be limited to the amount appropriated for that  
 32 purpose in the annual Budget Act.

33     (2) The department shall restore the funding reductions required  
 34 by subdivision (c) of Section 12301, fully or in part, as soon as  
 35 administratively practicable, if the amount appropriated from the  
 36 General Fund for the 1992–93 fiscal year under this article is  
 37 projected to exceed the sum of the General Fund expenditures  
 38 under Section 14132.95 and the actual General Fund expenditures  
 39 under this article for the 1992–93 fiscal year. The entire amount  
 40 of the excess shall be applied to the restoration. Services shall not

1 be restored under this paragraph until the Department of Finance  
2 has determined that the restoration of services would result in no  
3 additional costs to the state or to the counties relative to the  
4 combined state appropriation and county matching funds for  
5 in-home supportive services under this article in the 1992–93 fiscal  
6 year.

7 (3) *This section shall become operative only if Chapter 45 of*  
8 *the Statutes of 2012 is deemed inoperative pursuant to Section 15*  
9 *of that chapter.*

10 SEC. 37. *Section 12306 of the Welfare and Institutions Code,*  
11 *as amended by Section 9 of Chapter 45 of the Statutes of 2012, is*  
12 *amended to read:*

13 12306. (a) The state and counties shall share the annual cost  
14 of providing services under this article as specified in this section.

15 (b) Except as provided in subdivisions (c) and (d), the state shall  
16 pay to each county, from the General Fund and any federal funds  
17 received under Title XX of the federal Social Security Act available  
18 for that purpose, 65 percent of the cost of providing services under  
19 this article, and each county shall pay 35 percent of the cost of  
20 providing those services.

21 (c) For services eligible for federal funding pursuant to Title  
22 XIX of the federal Social Security Act under the Medi-Cal program  
23 and, except as provided in subdivisions (b) and (d) the state shall  
24 pay to each county, from the General Fund and any funds available  
25 for that purpose 65 percent of the nonfederal cost of providing  
26 services under this article, and each county shall pay 35 percent  
27 of the nonfederal cost of providing those services.

28 (d) (1) For the period of July 1, 1992, to June 30, 1994,  
29 inclusive, the state's share of the cost of providing services under  
30 this article shall be limited to the amount appropriated for that  
31 purpose in the annual Budget Act.

32 (2) The department shall restore the funding reductions required  
33 by subdivision (c) of Section 12301, fully or in part, as soon as  
34 administratively practicable, if the amount appropriated from the  
35 General Fund for the 1992–93 fiscal year under this article is  
36 projected to exceed the sum of the General Fund expenditures  
37 under Section 14132.95 and the actual General Fund expenditures  
38 under this article for the 1992–93 fiscal year. The entire amount  
39 of the excess shall be applied to the restoration. Services shall not  
40 be restored under this paragraph until the Department of Finance

1 has determined that the restoration of services would result in no  
2 additional costs to the state or to the counties relative to the  
3 combined state appropriation and county matching funds for  
4 in-home supportive services under this article in the 1992–93 fiscal  
5 year.

6 (e) For the period during which Section 12306.15 is operative,  
7 each county’s share of the costs of providing services pursuant to  
8 this article specified in subdivisions (b) and (c) shall remain, but  
9 the County IHSS Maintenance of Effort pursuant to Section  
10 12306.15 shall be in lieu of that share.

11 (f) *This section shall become inoperative only if Chapter 45 of*  
12 *the Statutes of 2012 is deemed inoperative pursuant to Section 15*  
13 *of that chapter.*

14 *SEC. 38. Section 12306.1 of the Welfare and Institutions Code,*  
15 *as amended by Section 25 of Chapter 725 of the Statutes of 2010,*  
16 *is amended to read:*

17 12306.1. (a) When any increase in provider wages or benefits  
18 is negotiated or agreed to by a public authority or nonprofit  
19 consortium under Section 12301.6, then the county shall use  
20 county-only funds to fund both the county share and the state share,  
21 including employment taxes, of any increase in the cost of the  
22 program, unless otherwise provided for in the annual Budget Act  
23 or appropriated by statute. No increase in wages or benefits  
24 negotiated or agreed to pursuant to this section shall take effect  
25 unless and until, prior to its implementation, the department has  
26 obtained the approval of the State Department of Health Care  
27 Services for the increase pursuant to a determination that it is  
28 consistent with federal law and to ensure federal financial  
29 participation for the services under Title XIX of the federal Social  
30 Security Act, and unless and until all of the following conditions  
31 have been met:

32 (1) Each county has provided the department with  
33 documentation of the approval of the county board of supervisors  
34 of the proposed public authority or nonprofit consortium rate,  
35 including wages and related expenditures. The documentation shall  
36 be received by the department before the department and the State  
37 Department of Health Care Services may approve the increase.

38 (2) Each county has met department guidelines and regulatory  
39 requirements as a condition of receiving state participation in the  
40 rate.

1 (b) Any rate approved pursuant to subdivision (a) shall take  
2 effect commencing on the first day of the month subsequent to the  
3 month in which final approval is received from the department.  
4 The department may grant approval on a conditional basis, subject  
5 to the availability of funding.

6 (c) The state shall pay 65 percent, and each county shall pay 35  
7 percent, of the nonfederal share of wage and benefit increases  
8 negotiated by a public authority or nonprofit consortium pursuant  
9 to Section 12301.6 and associated employment taxes, only in  
10 accordance with subdivisions (d) to (f), inclusive.

11 (d) (1) The state shall participate as provided in subdivision (c)  
12 in wages up to seven dollars and fifty cents (\$7.50) per hour and  
13 individual health benefits up to sixty cents (\$0.60) per hour for all  
14 public authority or nonprofit consortium providers. This paragraph  
15 shall be operative for the 2000–01 fiscal year and each year  
16 thereafter unless otherwise provided in paragraphs (2), (3), (4),  
17 and (5), and without regard to when the wage and benefit increase  
18 becomes effective.

19 (2) The state shall participate as provided in subdivision (c) in  
20 a total of wages and individual health benefits up to nine dollars  
21 and ten cents (\$9.10) per hour, if wages have reached at least seven  
22 dollars and fifty cents (\$7.50) per hour. Counties shall determine,  
23 pursuant to the collective bargaining process provided for in  
24 subdivision (c) of Section 12301.6, what portion of the nine dollars  
25 and ten cents (\$9.10) per hour shall be used to fund wage increases  
26 above seven dollars and fifty cents (\$7.50) per hour or individual  
27 health benefit increases, or both. This paragraph shall be operative  
28 for the 2001–02 fiscal year and each fiscal year thereafter, unless  
29 otherwise provided in paragraphs (3), (4), and (5).

30 (3) The state shall participate as provided in subdivision (c) in  
31 a total of wages and individual health benefits up to ten dollars  
32 and ten cents (\$10.10) per hour, if wages have reached at least  
33 seven dollars and fifty cents (\$7.50) per hour. Counties shall  
34 determine, pursuant to the collective bargaining process provided  
35 for in subdivision (c) of Section 12301.6, what portion of the ten  
36 dollars and ten cents (\$10.10) per hour shall be used to fund wage  
37 increases above seven dollars and fifty cents (\$7.50) per hour or  
38 individual health benefit increases, or both. This paragraph shall  
39 be operative commencing with the next state fiscal year for which  
40 the May Revision forecast of General Fund revenue, excluding

1 transfers, exceeds by at least 5 percent, the most current estimate  
2 of revenue, excluding transfers, for the year in which paragraph  
3 (2) became operative.

4 (4) The state shall participate as provided in subdivision (c) in  
5 a total of wages and individual health benefits up to eleven dollars  
6 and ten cents (\$11.10) per hour, if wages have reached at least  
7 seven dollars and fifty cents (\$7.50) per hour. Counties shall  
8 determine, pursuant to the collective bargaining process provided  
9 for in subdivision (c) of Section 12301.6, what portion of the eleven  
10 dollars and ten cents (\$11.10) per hour shall be used to fund wage  
11 increases or individual health benefits, or both. This paragraph  
12 shall be operative commencing with the next state fiscal year for  
13 which the May Revision forecast of General Fund revenue,  
14 excluding transfers, exceeds by at least 5 percent, the most current  
15 estimate of revenues, excluding transfers, for the year in which  
16 paragraph (3) became operative.

17 (5) The state shall participate as provided in subdivision (c) in  
18 a total cost of wages and individual health benefits up to twelve  
19 dollars and ten cents (\$12.10) per hour, if wages have reached at  
20 least seven dollars and fifty cents (\$7.50) per hour. Counties shall  
21 determine, pursuant to the collective bargaining process provided  
22 for in subdivision (c) of Section 12301.6, what portion of the  
23 twelve dollars and ten cents (\$12.10) per hour shall be used to fund  
24 wage increases above seven dollars and fifty cents (\$7.50) per hour  
25 or individual health benefit increases, or both. This paragraph shall  
26 be operative commencing with the next state fiscal year for which  
27 the May Revision forecast of General Fund revenue, excluding  
28 transfers, exceeds by at least 5 percent, the most current estimate  
29 of revenues, excluding transfers, for the year in which paragraph  
30 (4) became operative.

31 (6) Notwithstanding paragraphs (2) to (5), inclusive, the state  
32 shall participate as provided in subdivision (c) in a total cost of  
33 wages up to nine dollars and fifty cents (\$9.50) per hour and in  
34 individual health benefits up to sixty cents (\$0.60) per hour. This  
35 paragraph shall become operative on July 1, 2009.

36 (7) (A) The Legislature finds and declares that injunctions issued  
37 by the courts have prevented the state from implementing the  
38 changes described in paragraph (6) during the pendency of  
39 litigation. To avoid confusion for providers, recipients, and other  
40 stakeholders, it is therefore the intent of the Legislature to

1 temporarily suspend the reductions described in that paragraph  
2 until July 1, 2012, to allow the litigation to reach a final result.

3 (B) Paragraph (6) shall not be implemented until July 1, 2012,  
4 and as of that date shall only be implemented if a court of  
5 competent jurisdiction has issued an order, that is not subject to  
6 appeal or for which the time to appeal has expired, upholding its  
7 validity.

8 (e) (1) On or before May 14 immediately prior to the fiscal  
9 year for which state participation is provided under paragraphs (2)  
10 to (5), inclusive, of subdivision (d), the Director of Finance shall  
11 certify to the Governor, the appropriate committees of the  
12 Legislature, and the department that the condition for each  
13 subdivision to become operative has been met.

14 (2) For purposes of certifications under paragraph (1), the  
15 General Fund revenue forecast, excluding transfers, that is used  
16 for the relevant fiscal year shall be calculated in a manner that is  
17 consistent with the definition of General Fund revenues, excluding  
18 transfers, that was used by the Department of Finance in the  
19 2000–01 Governor’s Budget revenue forecast as reflected on  
20 Schedule 8 of the Governor’s Budget.

21 (f) Any increase in overall state participation in wage and benefit  
22 increases under paragraphs (2) to (5), inclusive, of subdivision (d),  
23 shall be limited to a wage and benefit increase of one dollar (\$1)  
24 per hour with respect to any fiscal year. With respect to actual  
25 changes in specific wages and health benefits negotiated through  
26 the collective bargaining process, the state shall participate in the  
27 costs, as approved in subdivision (c), up to the maximum levels  
28 as provided under paragraphs (2) to (6), inclusive, of subdivision  
29 (d).

30 (g) *This section shall become operative only if Chapter 45 of*  
31 *the Statutes of 2012 is deemed inoperative pursuant to Section 15*  
32 *of that chapter.*

33 *SEC. 39. Section 12306.1 of the Welfare and Institutions Code,*  
34 *as amended by Section 10 of Chapter 45 of the Statutes of 2012,*  
35 *is amended to read:*

36 12306.1. (a) When any increase in provider wages or benefits  
37 is negotiated or agreed to by a public authority or nonprofit  
38 consortium under Section 12301.6, then the county shall use  
39 county-only funds to fund both the county share and the state share,  
40 including employment taxes, of any increase in the cost of the

1 program, unless otherwise provided for in the annual Budget Act  
2 or appropriated by statute. No increase in wages or benefits  
3 negotiated or agreed to pursuant to this section shall take effect  
4 unless and until, prior to its implementation, the department has  
5 obtained the approval of the State Department of Health Care  
6 Services for the increase pursuant to a determination that it is  
7 consistent with federal law and to ensure federal financial  
8 participation for the services under Title XIX of the federal Social  
9 Security Act, and unless and until all of the following conditions  
10 have been met:

11 (1) Each county has provided the department with  
12 documentation of the approval of the county board of supervisors  
13 of the proposed public authority or nonprofit consortium rate,  
14 including wages and related expenditures. The documentation shall  
15 be received by the department before the department and the State  
16 Department of Health Care Services may approve the increase.

17 (2) Each county has met department guidelines and regulatory  
18 requirements as a condition of receiving state participation in the  
19 rate.

20 (b) Any rate approved pursuant to subdivision (a) shall take  
21 effect commencing on the first day of the month subsequent to the  
22 month in which final approval is received from the department.  
23 The department may grant approval on a conditional basis, subject  
24 to the availability of funding.

25 (c) The state shall pay 65 percent, and each county shall pay 35  
26 percent, of the nonfederal share of wage and benefit increases  
27 negotiated by a public authority or nonprofit consortium pursuant  
28 to Section 12301.6 and associated employment taxes, only in  
29 accordance with subdivisions (d) to (f), inclusive.

30 (d) (1) The state shall participate as provided in subdivision (c)  
31 in wages up to seven dollars and fifty cents (\$7.50) per hour and  
32 individual health benefits up to sixty cents (\$0.60) per hour for all  
33 public authority or nonprofit consortium providers. This paragraph  
34 shall be operative for the 2000–01 fiscal year and each year  
35 thereafter unless otherwise provided in paragraphs (2), (3), (4),  
36 and (5), and without regard to when the wage and benefit increase  
37 becomes effective.

38 (2) The state shall participate as provided in subdivision (c) in  
39 a total of wages and individual health benefits up to nine dollars  
40 and ten cents (\$9.10) per hour, if wages have reached at least seven

1 dollars and fifty cents (\$7.50) per hour. Counties shall determine,  
2 pursuant to the collective bargaining process provided for in  
3 subdivision (c) of Section 12301.6, what portion of the nine dollars  
4 and ten cents (\$9.10) per hour shall be used to fund wage increases  
5 above seven dollars and fifty cents (\$7.50) per hour or individual  
6 health benefit increases, or both. This paragraph shall be operative  
7 for the 2001–02 fiscal year and each fiscal year thereafter, unless  
8 otherwise provided in paragraphs (3), (4), and (5).

9 (3) The state shall participate as provided in subdivision (c) in  
10 a total of wages and individual health benefits up to ten dollars  
11 and ten cents (\$10.10) per hour, if wages have reached at least  
12 seven dollars and fifty cents (\$7.50) per hour. Counties shall  
13 determine, pursuant to the collective bargaining process provided  
14 for in subdivision (c) of Section 12301.6, what portion of the ten  
15 dollars and ten cents (\$10.10) per hour shall be used to fund wage  
16 increases above seven dollars and fifty cents (\$7.50) per hour or  
17 individual health benefit increases, or both. This paragraph shall  
18 be operative commencing with the next state fiscal year for which  
19 the May Revision forecast of General Fund revenue, excluding  
20 transfers, exceeds by at least 5 percent, the most current estimate  
21 of revenue, excluding transfers, for the year in which paragraph  
22 (2) became operative.

23 (4) The state shall participate as provided in subdivision (c) in  
24 a total of wages and individual health benefits up to eleven dollars  
25 and ten cents (\$11.10) per hour, if wages have reached at least  
26 seven dollars and fifty cents (\$7.50) per hour. Counties shall  
27 determine, pursuant to the collective bargaining process provided  
28 for in subdivision (c) of Section 12301.6, what portion of the eleven  
29 dollars and ten cents (\$11.10) per hour shall be used to fund wage  
30 increases or individual health benefits, or both. This paragraph  
31 shall be operative commencing with the next state fiscal year for  
32 which the May Revision forecast of General Fund revenue,  
33 excluding transfers, exceeds by at least 5 percent, the most current  
34 estimate of revenues, excluding transfers, for the year in which  
35 paragraph (3) became operative.

36 (5) The state shall participate as provided in subdivision (c) in  
37 a total cost of wages and individual health benefits up to twelve  
38 dollars and ten cents (\$12.10) per hour, if wages have reached at  
39 least seven dollars and fifty cents (\$7.50) per hour. Counties shall  
40 determine, pursuant to the collective bargaining process provided

1 for in subdivision (c) of Section 12301.6, what portion of the  
2 twelve dollars and ten cents (\$12.10) per hour shall be used to fund  
3 wage increases above seven dollars and fifty cents (\$7.50) per hour  
4 or individual health benefit increases, or both. This paragraph shall  
5 be operative commencing with the next state fiscal year for which  
6 the May Revision forecast of General Fund revenue, excluding  
7 transfers, exceeds by at least 5 percent, the most current estimate  
8 of revenues, excluding transfers, for the year in which paragraph  
9 (4) became operative.

10 (6) Notwithstanding paragraphs (2) to (5), inclusive, the state  
11 shall participate as provided in subdivision (c) in a total cost of  
12 wages up to nine dollars and fifty cents (\$9.50) per hour and in  
13 individual health benefits up to sixty cents (\$0.60) per hour. This  
14 paragraph shall become operative on July 1, 2009.

15 (7) (A) The Legislature finds and declares that injunctions  
16 issued by the courts have prevented the state from implementing  
17 the changes described in paragraph (6) during the pendency of  
18 litigation. To avoid confusion for providers, recipients, and other  
19 stakeholders, it is therefore the intent of the Legislature to  
20 temporarily suspend the reductions described in that paragraph  
21 until July 1, 2012, to allow the litigation to reach a final result.

22 (B) Paragraph (6) shall not be implemented until July 1, 2012,  
23 and as of that date shall only be implemented if a court of  
24 competent jurisdiction has issued an order, that is not subject to  
25 appeal or for which the time to appeal has expired, upholding its  
26 validity.

27 (e) (1) On or before May 14 immediately prior to the fiscal  
28 year for which state participation is provided under paragraphs (2)  
29 to (5), inclusive, of subdivision (d), the Director of Finance shall  
30 certify to the Governor, the appropriate committees of the  
31 Legislature, and the department that the condition for each  
32 subdivision to become operative has been met.

33 (2) For purposes of certifications under paragraph (1), the  
34 General Fund revenue forecast, excluding transfers, that is used  
35 for the relevant fiscal year shall be calculated in a manner that is  
36 consistent with the definition of General Fund revenues, excluding  
37 transfers, that was used by the Department of Finance in the  
38 2000–01 Governor’s Budget revenue forecast as reflected on  
39 Schedule 8 of the Governor’s Budget.

1 (f) Any increase in overall state participation in wage and benefit  
2 increases under paragraphs (2) to (5), inclusive, of subdivision (d),  
3 shall be limited to a wage and benefit increase of one dollar (\$1)  
4 per hour with respect to any fiscal year. With respect to actual  
5 changes in specific wages and health benefits negotiated through  
6 the collective bargaining process, the state shall participate in the  
7 costs, as approved in subdivision (c), up to the maximum levels  
8 as provided under paragraphs (2) to (6), inclusive, of subdivision  
9 (d).

10 (g) For the period during which Section 12306.15 is operative,  
11 each county's share of the costs of negotiated wage and benefit  
12 increases specified in subdivision (c) shall remain, but the County  
13 IHSS Maintenance of Effort pursuant to Section 12306.15 shall  
14 be in lieu of that share.

15 (h) *This section shall become inoperative only if Chapter 45 of*  
16 *the Statutes of 2012 is deemed inoperative pursuant to Section 15*  
17 *of that chapter.*

18 *SEC. 40. Section 12306.15 of the Welfare and Institutions Code*  
19 *is amended to read:*

20 12306.15. (a) Commencing July 1, 2012, all counties shall  
21 have a County IHSS Maintenance of Effort (MOE). In lieu of  
22 paying the nonfederal share of IHSS costs as specified in Sections  
23 10101.1, 12306, and 12306.1, counties shall pay the County IHSS  
24 MOE.

25 (b) (1) The County IHSS MOE base year shall be the 2011–12  
26 state fiscal year. The County IHSS MOE base shall be defined as  
27 the amount actually expended by each county on IHSS services  
28 and administration in the County IHSS MOE base year, as reported  
29 by each county to the ~~Department of Social Services~~ *department*,  
30 except that for administration, the County IHSS MOE base shall  
31 include no more or no less than the full match for the county's  
32 allocation from the state.

33 (2) Administration expenditures shall include both county  
34 administration and public authority administration. The County  
35 IHSS MOE base shall be unique to each individual county.

36 (3) For a county that made 14 months of health benefit payments  
37 for IHSS providers in the 2011–12 fiscal year, the Department of  
38 Finance shall adjust that county's County IHSS MOE base  
39 calculation.

1 (4) The County IHSS MOE base for each county shall be no  
2 less than each county's 2011–12 expenditures for the Personal  
3 Care Services Program and IHSS used in the caseload growth  
4 calculation pursuant to Section 17605.

5 (c) (1) On July 1, 2014, the County IHSS MOE base shall be  
6 adjusted by an inflation factor of 3.5 percent.

7 (2) Beginning on July 1, 2015, and annually thereafter, the  
8 County IHSS MOE from the previous year shall be adjusted by  
9 an inflation factor of 3.5 percent.

10 (3) (A) Notwithstanding paragraphs (1) and (2), in fiscal years  
11 when the combined total of 1991 realignment revenues received  
12 pursuant to Sections 11001.5, 6051.2, and 6201.2 of the Revenue  
13 and Taxation Code, for the prior fiscal year is less than the  
14 combined total received for the next prior fiscal year, the inflation  
15 factor shall be zero.

16 (B) The Department of Finance shall provide notification to the  
17 appropriate legislative fiscal committees and the California State  
18 Association of Counties by May 14 of each year whether the  
19 inflation factor will apply for the following fiscal year, based on  
20 the calculation in subparagraph (A).

21 (d) In addition to the adjustment in subdivision (c), the County  
22 IHSS MOE shall be adjusted for the annualized cost of ~~locally~~  
23 ~~negotiated, mediated, or imposed~~ increases in provider wages or  
24 health benefits *that are locally negotiated, mediated, or imposed*  
25 *before the Statewide Authority assumes the responsibilities set*  
26 *forth in Section 110011 of the Government Code for a given county*  
27 *as provided in Section 12300.7.*

28 (1) (A) If the ~~State Department of Social Services~~ *department*  
29 approves the rates and other economic terms for a locally  
30 negotiated, mediated, or imposed increase in the provider wages,  
31 health benefits, or other economic terms pursuant to Section  
32 12306.1 and paragraph (3), the state shall pay 65 percent, and ~~each~~  
33 *the affected county shall pay 35 percent, of the nonfederal share*  
34 *of the cost increase in accordance with subparagraph (B).*

35 (B) The county share of these expenditures shall be included in  
36 the County IHSS MOE, in addition to the amount established under  
37 subdivisions (b) and (c). For any increase in provider wages or  
38 health benefits that becomes effective on a date other than July 1,  
39 the Department of Finance shall adjust the county's County IHSS

1 MOE to reflect the annualized cost of the county's share of the  
2 nonfederal cost of the wage or health benefit increase.

3 (2) (A) If the ~~State Department of Social Services~~ *department*  
4 does not approve the rates and other economic terms for a locally  
5 negotiated, mediated, or imposed increase in the provider wages,  
6 health benefits, or other economic terms pursuant to Section  
7 12306.1 or paragraph (3), the county shall pay the entire nonfederal  
8 share of the cost increase.

9 (B) The county share of these expenditures shall be included in  
10 the County IHSS MOE, in addition to the amount established under  
11 subdivisions (b) and (c). For any increase in provider wages or  
12 health benefits that becomes effective on a date other than July 1,  
13 the Department of Finance shall adjust the county's County IHSS  
14 MOE to reflect the annualized cost of the county's share of the  
15 nonfederal cost of the wage or health benefit increase.

16 (3) In addition to the rate approval requirements in Section  
17 12306.1, it shall be presumed by the ~~State Department of Social~~  
18 ~~Services~~ *department* that *locally* negotiated rates and other  
19 economic terms within the following limits are approved:

20 (A) A net increase in the combined total of wages and health  
21 benefits of up to 10 percent above the current combined total of  
22 wages and health benefits paid in that county.

23 (B) A cumulative total of up to 20 percent in the sum of the  
24 combined total of changes in wages or health benefits, or both,  
25 until the Statewide Authority assumes the responsibilities set forth  
26 in Section 110011 of the Government Code for a given county as  
27 provided in Section 12300.7.

28 (e) The County IHSS MOE shall only be adjusted pursuant to  
29 subdivisions (c) and (d).

30 (f) *The Department of Finance shall consult with the California*  
31 *State Association of Counties to implement the County IHSS MOE,*  
32 *which shall include, but not be limited to, determining each*  
33 *county's County IHSS MOE base pursuant to subdivision (b),*  
34 *developing the computation for the annualized amount pursuant*  
35 *to subdivision (d), and the process by which it will be determined*  
36 *that each county has met its County IHSS MOE each year.*

37 (f)

38 (g) If the demonstration project and the responsibilities of the  
39 Statewide Authority become inoperative pursuant to Section 15,  
40 16, or 17 of the act adding this section on a date other than July 1,

1 this section shall become inoperative on the first day of the  
2 following state fiscal year.

3 *SEC. 41. Section 12330 of the Welfare and Institutions Code*  
4 *is amended to read:*

5 12330. (a) No later than January 1, 2014, the ~~State Department~~  
6 ~~of Social Services department~~, in consultation with the ~~department~~  
7 *State Department of Health Care Services*, and in collaboration  
8 with stakeholders including, but not limited to, IHSS recipients  
9 and recognized employee representatives, shall develop a training  
10 curriculum for IHSS providers that shall address issues of  
11 consistency, accountability, and increased quality of care for IHSS  
12 recipients.

13 (b) Participation in the training developed pursuant to  
14 subdivision (a) shall be voluntary.

15 (c) Nothing in this section shall require that training be funded  
16 by the state.

17 (d) This section shall not be construed to preclude a managed  
18 care health plan, as part of the care coordination team, from  
19 developing recipient-specific voluntary training curriculum for an  
20 IHSS provider who has been integrated into a beneficiary's care  
21 coordination team.

22 (e) The IHSS recipient shall continue to have the right to train  
23 his or her individual provider.

24 *SEC. 42. Section 14186.35 of the Welfare and Institutions Code*  
25 *is amended to read:*

26 14186.35. (a) Not sooner than March 1, 2013, in-home  
27 supportive services (IHSS) shall be a Medi-Cal benefit available  
28 through managed care health plans in a county where this article  
29 is effective. Managed care health plans shall cover IHSS in  
30 accordance with the standards and requirements set forth in Article  
31 7 (commencing with Section 12300) of Chapter 3. Specifically,  
32 managed care health plans shall do all of the following:

33 (1) Ensure access to, provision of, and payment for IHSS for  
34 individuals who meet the eligibility criteria for IHSS.

35 (2) ~~Retain recipients~~<sup>2</sup>—*Ensure recipients retain the right to be*  
36 *the employer, to select, engage, direct, supervise, schedule, and*  
37 *terminate IHSS providers in accordance with Section 12301.6.*

38 (3) Assume all financial liability for payment of IHSS services  
39 for recipients receiving said services pursuant to managed care.

1 (4) Create a care coordination team, as needed and subject to  
2 the consumer's consent, that shall include county IHSS social  
3 workers, consumers and their representatives, managed care health  
4 plans, and may include IHSS providers and others as applicable,  
5 for individual care plan development. For individuals identified  
6 to participate in care coordination, managed care health plans shall  
7 include the consumer or his or her authorized representative, or  
8 both, health plan, county IHSS staff if the consumer is an IHSS  
9 recipient, Community-Based Adult Services (CBAS) and  
10 Multipurpose Senior Services Program (MSSP) case managers if  
11 the consumer is a CBAS or MSSP client, and may include others  
12 as identified by *unless the consumer objects. If the consumer is an*  
13 *IHSS recipient, his or her participation and the participation of*  
14 *his or her provider shall be at the recipient's option. The care*  
15 *coordination team shall include the consumer, his or her authorized*  
16 *representative, managed care health plan, county social services*  
17 *agency, Community Based Adult Services (CBAS) case manager*  
18 *for CBAS clients, Multipurpose Senior Services Program (MSSP)*  
19 *case manager for MSSP clients, and may include others as*  
20 *identified by the consumer.*

21 (5) Maintain the paramedical role and function of providers as  
22 authorized pursuant to Sections 12300 and 12301.

23 (6) Ensure compliance with all requirements set forth in Section  
24 14132.956 and any resulting state plan amendments.

25 (7) Adhere to quality assurance provisions and individual data  
26 and other standards and requirements as specified by the State  
27 Department of Social Services including state and federal quality  
28 assurance requirements.

29 (8) Share confidential beneficiary data with the contractors  
30 specified in this section to improve care coordination, promote  
31 shared understanding of the consumer's needs, and ensure  
32 appropriate access to IHSS and other long-term services and  
33 supports.

34 (9) (A) Enter into a memorandum of understanding with a  
35 county agency and the county's public authority or nonprofit  
36 consortium pursuant to Section 12301.6 to continue to perform  
37 their respective functions and responsibilities pursuant to the  
38 existing ordinance or contract until the Director of Health Care  
39 Services provides notification pursuant to subdivision (a) of Section  
40 12300.7 for that county.

- 1 (B) Following the notification pursuant to subdivision (a) of  
2 Section 12300.7, enter into a memorandum of understanding with  
3 the county agencies to perform the following activities:
- 4 (i) Assess, approve, and authorize each recipient's initial and  
5 continuing need for services pursuant to Article 7 (commencing  
6 with Section 12300) of Chapter 3. County agency assessments  
7 shall be shared with the care coordination teams established under  
8 paragraph (4), when applicable, and the county agency thereafter  
9 may receive and consider additional input from the care  
10 coordination team.
- 11 (ii) Plans may contract with counties for additional assessments  
12 for purposes of paragraph (6) of subdivision (b) of Section 14186.
- 13 (iii) Enroll providers, conduct provider orientation, and retain  
14 enrollment documentation pursuant to Sections 12301.24 and  
15 12305.81.
- 16 (iv) Conduct criminal background checks on all potential  
17 providers and exclude providers consistent with the provisions set  
18 forth in Sections 12305.81, 12305.86, and 12305.87.
- 19 (v) Provide assistance to IHSS recipients in finding eligible  
20 providers through the establishment of a provider registry as well  
21 as provide training for providers and recipients as set forth in  
22 Section 12301.6.
- 23 (vi) Refer all providers to the California In-Home Supportive  
24 Services Authority or nonprofit consortium for the purposes of  
25 ~~wages and wages~~, benefits, *and other terms and conditions of*  
26 *employment in accordance with subdivision (a) of Section 12300.7*  
27 *and Title 23 (commencing with Section 110000) of the Government*  
28 *Code*.
- 29 (vii) Pursue overpayment recovery pursuant to Section 12305.83.
- 30 (viii) Perform quality assurance activities including routine case  
31 reviews, home visits, and detecting and reporting suspected fraud  
32 pursuant to Section 12305.71.
- 33 (ix) Share confidential data necessary to implement the  
34 provisions of this section.
- 35 (x) Appoint an advisory committee of not more than 11 people,  
36 and no less than 50 percent of the membership of the advisory  
37 committee shall be individuals who are current or past users of  
38 personal assistance paid for through public or private funds or  
39 recipients of IHSS services.

1 (xi) Continue to perform other functions necessary for the  
2 administration of the IHSS program pursuant to Article 7  
3 (commencing with Section 12300) of Chapter 3 and regulations  
4 promulgated by the State Department of Social Services pursuant  
5 to that article.

6 ~~A~~

7 (C) A county may contract with ~~a nonprofit consortium~~, *an entity*  
8 or may establish a public authority pursuant to Section 12301.6  
9 for the performance of any or all of the activities set forth in a  
10 contract with a managed care health plan pursuant to this section.

11 (10) Enter into a contract with the State Department of Social  
12 Services to perform the following activities:

13 (A) Pay wages *and benefits* to IHSS providers in accordance  
14 with the wages *and benefits* negotiated pursuant to Title 23  
15 (commencing with Section 110000) of the Government Code.

16 (B) Perform obligations on behalf of the IHSS recipient as the  
17 employer of his or her provider, including unemployment  
18 compensation, disability benefits, applicable federal and state  
19 taxes, and federal old age survivor's and disability insurance  
20 through the state's payroll system for IHSS in accordance with  
21 Sections 12302.2 and 12317.

22 (C) Provide technical assistance and support for all  
23 payroll-related activities involving the state's payroll system for  
24 IHSS, including, but not limited to, the monthly restaurant  
25 allowance as set forth in Section 12303.7, the monthly cash  
26 payment in advance as set forth in Section 12304, and the direct  
27 deposit program as set forth in Section 12304.4.

28 (D) Share recipient and provider data with managed care health  
29 plans for members who are receiving IHSS to support care  
30 coordination.

31 (E) Provide an option for managed care health plans to  
32 participate in quality monitoring activities conducted by the State  
33 Department of Social Services pursuant to subdivision (f) of  
34 Section 12305.7 for recipients who are plan members.

35 (11) In concert with the department, timely reimburse the ~~State~~  
36 ~~Department of Social Services~~ *state* for payroll and other  
37 obligations of the beneficiary as the employer, including  
38 unemployment compensation, disability benefits, applicable federal  
39 and state taxes, and federal old age survivors and disability  
40 insurance benefits through the state's payroll system.

1 (12) In a county where services are provided in the homemaker  
2 mode, enter into a contract with the county to implement the  
3 provision of services pursuant to the homemaker mode as set forth  
4 in Section 12302.

5 (13) Retain the IHSS individual provider mode as a choice  
6 available to beneficiaries in all participating managed care health  
7 plans in each county.

8 (14) In a county where services are provided pursuant to a  
9 contract, *and as needed*, enter into a contract with a city, county,  
10 or city and county agency, a local health district, a voluntary  
11 nonprofit agency, or a proprietary agency as set forth in Sections  
12 12302 and ~~12302.1~~ *in accordance with Section 12302.6*.

13 (15) Assume the financial risk associated with the cost of payroll  
14 and associated activities set forth in paragraph (10).

15 (b) IHSS recipients receiving services through managed care  
16 health plans shall retain all of the following:

17 (1) The responsibilities as the employer of the IHSS provider  
18 for the purposes of hiring, firing, and supervising their provider  
19 of choice as set forth in Section 12301.6.

20 (2) The ability to appeal any action relating to his or her  
21 application for or receipt of services pursuant to Article 7  
22 (commencing with Section 12300) of Chapter 3.

23 (3) The right to employ a provider applicant who has been  
24 convicted of an offense specified in Section 12305.87 by submitting  
25 a waiver of the exclusion.

26 (4) The ability to request a reassessment pursuant to Section  
27 12301.1.

28 (c) The department and the State Department of Social Services,  
29 along with the counties, managed care health plans, consumers,  
30 advocates, and other stakeholders, shall develop a referral process  
31 and informational materials for the appeals process that is  
32 applicable to home- and community-based services plan benefits  
33 authorized by a managed care health plan. The process established  
34 by this paragraph shall ensure ease of access for consumers.

35 (d) For services provided through managed care health plans,  
36 the IHSS provider shall continue to adhere to the requirements set  
37 forth in ~~subdivisions (a) and~~ *subdivision* (b) of Section 12301.24,  
38 subdivision (a) of Section 12301.25, subdivision (a) of Section  
39 12305.81, and subdivision (a) of Section 12306.5.

1 (e) In accordance with Section 14186.2, as the provision of  
2 IHSS transitions to managed care health plans in a phased-in  
3 approach, the State Department of Social Services shall do all of  
4 the following:

5 (1) Retain program administration functions, in coordination  
6 with the department, including policy development, provider  
7 appeals and general exceptions, and quality assurance and program  
8 integrity for the IHSS program in accordance with Article 7  
9 (commencing with Section 12300) of Chapter 3.

10 (2) Perform the obligations on behalf of the recipient as  
11 employer relating to workers' compensation as set forth in Section  
12 12302.2 and Section 12302.21 for those entities that have entered  
13 into a contract with a managed care health plan pursuant to  
14 Section 12302.6.

15 (3) Retain responsibilities related to the hearing process for  
16 IHSS recipient appeals as set forth in Chapter 7 (commencing with  
17 Section 10950) of Part 2.

18 (4) Continue to have access to and provide confidential recipient  
19 data necessary for the administration of the program.

20 (f) *A managed care health plan shall not be deemed be the*  
21 *employer of an individual in-home supportive services provider*  
22 *referred to recipients under this section for purposes of liability*  
23 *due to the negligence or intentional torts of the individual provider.*

24 *SEC. 43. Section 18906.55 of the Welfare and Institutions Code*  
25 *is amended to read:*

26 18906.55. (a) Notwithstanding Section 18906.5 or any other  
27 law, as a result of the substantial fiscal pressures on counties  
28 created by the unprecedented and unanticipated CalFresh caseload  
29 growth associated with the economic downturn beginning in 2008,  
30 and in order to provide fiscal relief to counties as a result of this  
31 growth, a county that meets the maintenance of effort requirement  
32 pursuant to Section 15204.4 entirely through expenditures for the  
33 administration of CalFresh in state fiscal years 2010–11–~~and~~,  
34 2011–12, and 2012–13 shall receive the full General Fund  
35 allocation for administration of CalFresh without paying the  
36 county's share of the nonfederal costs for the amount above the  
37 maintenance of effort required by Section 15204.4.

38 (b) The full General Fund allocation for administration of  
39 CalFresh pursuant to subdivision (a) shall equal 35 percent of the  
40 total federal and nonfederal projected funding need for

1 administration of CalFresh. The methodology used for calculating  
2 those projections shall remain the same as it was for the 2009–10  
3 fiscal year for as long as this section remains in effect.

4 (c) No relief to the county share of administrative costs  
5 authorized by this section shall result in any increased cost to the  
6 General Fund as determined in subdivision (b).

7 (d) Subdivision (a) shall not be interpreted to prevent a county  
8 from expending funds in excess of the amount required to meet  
9 the maintenance of effort required by Section 15204.4.

10 (e) This section shall become inoperative on July 1, ~~2012~~ 2013,  
11 and, as of January 1, ~~2013~~ 2014, is repealed, unless a later enacted  
12 statute, that becomes operative on or before January 1, ~~2013~~ 2014,  
13 deletes or extends the dates on which it becomes inoperative and  
14 is repealed.

15 *SEC. 44. Section 18987.7 of the Welfare and Institutions Code*  
16 *is amended to read:*

17 18987.7. (a) The State Department of Social Services shall  
18 convene a workgroup of public and private nonprofit stakeholders  
19 that shall develop a plan for transforming the current system of  
20 group care for foster children or youth, and for children with  
21 serious emotional disorders (SED), into a system of residentially  
22 based services. The stakeholders may include, but not be limited  
23 to, representatives of the department ~~and of the State Department~~  
24 ~~of Mental Health~~, the State Department of Education, *the State*  
25 *Department of Health Care Services*, the State Department of  
26 Alcohol and Drug Programs, and the Department of Corrections  
27 and Rehabilitation; county child welfare, probation, mental health,  
28 and alcohol and drug programs; local education authorities; current  
29 and former foster youth, parents of foster children or youth, and  
30 children or youth with SED; private nonprofit agencies operating  
31 group homes; children’s advocates; and other interested parties.

32 (b) The plan developed pursuant to this chapter shall utilize the  
33 reports delivered to the Legislature pursuant to Section 75 of  
34 Chapter 311 of the Statutes of 1998 by the Steering Committee  
35 for the Reexamination of the Role of Group Care in a Family-Based  
36 System of Care in June 2001 and August 2002, and the  
37 “Framework for a New System for Residentially-Based Services  
38 in California” published in March 2006.

39 (c) In the development, implementation, and subsequent  
40 revisions of the plan developed pursuant to subdivision (a), the

1 knowledge and experience gained by counties and private nonprofit  
2 agencies through the operation of their residentially based services  
3 programs created under voluntary agreements made pursuant to  
4 Section 18987.72, including, but not limited to, the results of  
5 evaluations prepared pursuant to paragraph (3) of subdivision (c)  
6 of Section 18987.72 shall be utilized.

7 (d) The workgroup described in subdivision (a) shall be the  
8 workgroup described in Section 11461.2. The responsibilities  
9 described in subdivisions (b) and (c) shall be assumed by the  
10 workgroup and the recommendations shall be submitted as set  
11 forth in subdivision (f) of Section 11461.2.

12 *SEC. 45. Section 17 of Chapter 45 of the Statutes of 2012 is*  
13 *amended to read:*

14 ~~SEC.~~

15 *Sec. 17.* In the event the director decides to entirely forego the  
16 provision of services as specified in Section 14186.4 of the Welfare  
17 and Institutions Code, Section 6531.5 and Title 23 (*commencing*  
18 *with Section 110000*) of the Government Code and Sections  
19 12300.5, 12300.6, and 12300.7 of the Welfare and Institutions  
20 Code as added by this act shall cease to be implemented except as  
21 follows:

22 (a) For an agreement that has been negotiated and approved by  
23 the Statewide Authority, the Statewide Authority shall continue  
24 to retain its authority pursuant to Section 6531.5 and Title 23  
25 (*commencing with Section 110000*) of the Government Code and  
26 Sections 12300.5, 12300.6, 12300.7, and 12302.6 of the Welfare  
27 and Institutions Code as added by this act, and remain the employer  
28 of record for all individual providers covered by the agreement  
29 until the agreement expires or is subject to renegotiation, whereby  
30 the authority of the Statewide Authority shall terminate and the  
31 county shall be the employer of record in accordance with Section  
32 12302.25 of the Welfare and Institutions Code and may establish  
33 an employer of record pursuant to Section 12301.6 of the Welfare  
34 and Institutions Code.

35 (b) For an agreement that has been assumed by the Statewide  
36 Authority that was negotiated and approved by a predecessor  
37 agency, the Statewide Authority shall cease being the employer  
38 of record and the county shall be reestablished as the employer of  
39 record for purposes of bargaining and in accordance with Section  
40 12302.25 of the Welfare and Institutions Code, and may establish

1 an employer of record pursuant to Section 12301.6 of the Welfare  
2 and Institutions Code.

3 *SEC. 46. If the Commission on State Mandates determines that*  
4 *this act contains costs mandated by the state, reimbursement to*  
5 *local agencies and school districts for those costs shall be made*  
6 *pursuant to Part 7 (commencing with Section 17500) of Division*  
7 *4 of Title 2 of the Government Code.*

8 *SEC. 47. The sum of one thousand dollars (\$1,000) is hereby*  
9 *appropriated from the General Fund to the California Health and*  
10 *Human Services Agency, for administration.*

11 *SEC. 48. This act is a bill providing for appropriations related*  
12 *to the Budget Bill within the meaning of subdivision (e) of Section*  
13 *12 of Article IV of the California Constitution, has been identified*  
14 *as related to the budget in the Budget Bill, and shall take effect*  
15 *immediately.*

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**All matter omitted in this version of the bill  
appears in the bill as amended in the  
Senate, June 26, 2012. (JR11)**