

AMENDED IN SENATE SEPTEMBER 6, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 485**

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**Introduced by Assembly Member Gomez**

February 19, 2013

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*An act to amend Sections 110003, 110005, 110006, 110007, 110008, 110009, 110011, and 110021 of, and to amend and repeal Section 6253.2 of, the Government Code, to amend Sections 12300.5, 12300.7, and 14186.35 of, to amend and repeal Sections 10101.1, 12306, and 12306.1 of, and to repeal Section 12302.25 of, the Welfare and Institutions Code, and to amend Section 34 of Chapter 37 of the Statutes of 2013, relating to ~~state employees~~: in-home supportive services.*

LEGISLATIVE COUNSEL'S DIGEST

AB 485, as amended, Gomez. ~~State employees: memorandum of understanding.~~ *In-home supportive services.*

*Existing law establishes 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 establishes 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.*

*Existing law establishes, as part of the Coordinated Care Initiative, 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 California In-Home Supportive Services Authority (Statewide Authority) and recognized*

*employee organizations providing in-home supportive services. Existing law establishes the 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 provides, as part of the Coordinated Care Initiative, that IHSS is a Medi-Cal benefit available through managed care health care plans in specified counties and requires enrollment of eligible Medi-Cal beneficiaries into managed care pursuant to a specified demonstration project or other provisions, including managed care for long-term services and supports, as one of the conditions that would be required to be completed before the Statewide Authority assumes the specified responsibilities. Existing law provides that no sooner than March 1, 2013, the Statewide Authority shall assume specified responsibilities in a county or city and county upon notification by the Director of Health Care Services that the enrollment of eligible Medi-Cal beneficiaries described in specified provisions of law has been completed in that county or city and county. Under existing law, in counties where IHSS is a Medi-Cal benefit available through managed care health plans, those health plans are required to assume specified duties, including entering into a memorandum of understanding with a county agency to perform specified activities, after the director provides that notification. Under existing law, the assumption of these responsibilities by the Statewide Authority is also known as the county implementation date.*

*This bill would, instead, make the implementation date January 1, 2014, would delete the reference to the “county” implementation date, and would make conforming changes.*

*Existing law conditions implementation of the Coordinated Care Initiative, as defined, on whether the Director of Finance estimates that the Coordinated Care Initiative will generate net General Fund savings, as specified. Existing law, with certain exceptions, specifies those provisions of law that are within the scope of the initiative to become inoperative if this condition is not met.*

*This bill would modify the definition of the Coordinate Care Initiative for the purposes of determining which provisions become inoperative if the condition is not met, and exclude, among others, those provisions that establish the In-Home Supportive Services Employer-Employee Relations Act, establish the Statewide Authority and determine the duties*

*of, and when those duties are assumed by, the authority, establish the IHSS Fund, which is used to fund the Statewide Authority, and require all counties, commencing July 1, 2012, to have a County IHSS Maintenance of Effort (MOE) and to pay the County IHSS MOE instead of paying the nonfederal share of IHSS costs, as specified. The bill would make conforming changes.*

~~Existing law provides that a provision of a memorandum of understanding reached between the state employer and a recognized employee organization representing state civil service employees that requires the expenditure of funds does not become effective unless approved by the Legislature in the annual Budget Act.~~

~~This bill would approve provisions of a memorandum of understanding entered into between the state employer and State Bargaining Unit 16, Physicians, Dentists, and Podiatrists that require the expenditure of funds, and would provide that these provisions will become effective even if these provisions are approved by the Legislature in legislation other than the annual Budget Act.~~

~~The bill would provide that provisions of the memorandum of understanding approved by this bill that require the expenditure of funds will not take effect unless funds for those provisions are specifically appropriated by the Legislature, and would require the state employer and the affected employee organization to meet and confer to renegotiate the affected provisions if funds for those provisions are not specifically appropriated by the Legislature.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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

- 1     SECTION 1. Section 6253.2 of the Government Code, as
- 2     amended by Section 1 of Chapter 37 of the Statutes of 2013, is
- 3     amended 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
- 8     Division 9 of the Welfare and Institutions Code, or services
- 9     provided pursuant to Section 14132.95, 14132.952, or 14132.956
- 10    of the Welfare and Institutions Code, is not subject to public

1 disclosure pursuant to this chapter, except as provided in  
2 subdivision (b).

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

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

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

27 ~~(e) This section shall be inoperative if the Coordinated Care~~  
28 ~~Initiative becomes inoperative pursuant to Section 34 of the act~~  
29 ~~that added this subdivision.~~

30 *SEC. 2. Section 6253.2 of the Government Code, as amended*  
31 *by Section 2 of Chapter 37 of the Statutes of 2013, is repealed.*

32 ~~6253.2. (a) Notwithstanding any other provision of this chapter~~  
33 ~~to the contrary, information regarding persons paid by the state to~~  
34 ~~provide in-home supportive services pursuant to Article 7~~  
35 ~~(commencing with Section 12300) of Chapter 3 of Part 3 of~~  
36 ~~Division 9 of the Welfare and Institutions Code or personal care~~  
37 ~~services pursuant to Section 14132.95 of the Welfare and~~  
38 ~~Institutions Code, is not subject to public disclosure pursuant to~~  
39 ~~this chapter, except as provided in 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 subdivision~~  
5 ~~(e) of Section 12301.6 or Section 12302.25 of the Welfare and~~  
6 ~~Institutions Code or Chapter 10 (commencing with Section 3500)~~  
7 ~~of Division 4 of Title 1. This information shall not be used by the~~  
8 ~~receiving entity for any purpose other than the employee~~  
9 ~~organizing, representation, and assistance activities of the labor~~  
10 ~~organization.~~

11 ~~(c) This section applies 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) or the Personal~~  
15 ~~Care Services Program pursuant to Section 14132.95 of the Welfare~~  
16 ~~and Institutions Code.~~

17 ~~(d) Nothing in this section is intended to alter or shall be~~  
18 ~~interpreted to alter the rights of parties under the~~  
19 ~~Meyers-Milias-Brown Act (Chapter 10 (commencing with Section~~  
20 ~~3500) of Division 4) or any other labor relations law.~~

21 ~~(e) This section shall be operative only if Section 1 of the act~~  
22 ~~that added this subdivision becomes inoperative pursuant to~~  
23 ~~subdivision (e) of that Section 1.~~

24 *SEC. 3. Section 110003 of the Government Code is amended*  
25 *to read:*

26 110003. As used in this title:

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

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

1 of the Statewide Authority for any other purpose, except as  
2 expressly set forth in this title.

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

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

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

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

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

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

37 (i) “Predecessor agency” means a county or an entity established  
38 pursuant to Section 12301.6 of the Welfare and Institutions Code  
39 before the effective date of this title.

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

3 (1) Before the ~~county~~ implementation date as described in  
4 subdivision (a) of Section 12300.7 of the Welfare and Institutions  
5 Code, by a county or an entity established pursuant to Section  
6 12301.6 of the Welfare and Institutions Code, as the representative  
7 of individual providers in its jurisdiction.

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

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

15 *SEC. 4. Section 110005 of the Government Code is amended*  
16 *to read:*

17 110005. For the purposes of this title, the ~~county~~  
18 implementation date is defined in subdivision (a) of Section  
19 12300.7 of the Welfare and Institutions Code.

20 *SEC. 5. Section 110006 of the Government Code is amended*  
21 *to read:*

22 110006. For purposes of collective bargaining, and as expressly  
23 set forth in subdivision (d) of Section 110003, the Statewide  
24 Authority is deemed to be the employer of record of individual  
25 providers in each county as of the ~~county~~ implementation date.  
26 In-home supportive services recipients shall retain the right to hire,  
27 fire, and supervise the work of the individual providers providing  
28 services to them.

29 *SEC. 6. Section 110007 of the Government Code is amended*  
30 *to read:*

31 110007. Individual providers employed by any predecessor  
32 agency as of the ~~county~~ implementation date shall retain employee  
33 status and shall not be required by the Statewide Authority to  
34 requalify to receive payment for providing services pursuant to  
35 Article 7 (commencing with Section 12300) of Chapter 3 of Part  
36 3 of Division 9 of the Welfare and Institutions Code. In the same  
37 manner as set forth in subdivision (e) of Section 12305.86 of the  
38 Welfare and Institutions Code, the Statewide Authority shall accept  
39 a clearance that was obtained or accepted by any predecessor  
40 agency pursuant to Article 7 (commencing with Section 12300)

1 of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions  
 2 Code. Existence of a clearance shall be determined by verification  
 3 through the case management, information, and payroll system of  
 4 the predecessor agency that the predecessor agency has deemed  
 5 the provider to be eligible to receive payment for providing services  
 6 pursuant to Article 7 (commencing with Section 12300) of Chapter  
 7 3 of Part 3 of Division 9 of the Welfare and Institutions Code.

8 *SEC. 7. Section 110008 of the Government Code is amended*  
 9 *to read:*

10 110008. On the ~~county~~ implementation date, separate  
 11 bargaining units shall be created consistent with the bargaining  
 12 units that have been recognized by predecessor agencies.  
 13 Bargaining units consisting of employees in a single county shall  
 14 be the only appropriate unit for collective bargaining under this  
 15 title. In those counties where no recognized employee organization  
 16 exists as of the ~~county~~ implementation date, a bargaining unit  
 17 consisting of all employees in that county shall be deemed an  
 18 appropriate unit for collective bargaining.

19 *SEC. 8. Section 110009 of the Government Code is amended*  
 20 *to read:*

21 110009. If, on the ~~county~~ implementation date, individual  
 22 providers are represented by a recognized employee organization,  
 23 the Statewide Authority shall be deemed the successor employer  
 24 of the predecessor agency for the purposes of negotiating a  
 25 collective bargaining agreement, and shall be obligated to recognize  
 26 and to meet and confer in good faith with the recognized employee  
 27 organization on all matters within the scope of representation, as  
 28 defined in Section 110023, as to those individual providers.

29 *SEC. 9. Section 110011 of the Government Code is amended*  
 30 *to read:*

31 110011. (a) Except as otherwise expressly provided in this  
 32 title, the enactment of this title shall not be a cause for the employer  
 33 or any predecessor agency to modify or eliminate any existing  
 34 memorandum of agreement or understanding, or to modify existing  
 35 wages, benefits, or other terms and conditions of employment.  
 36 Except to the extent set forth in this title, the enactment of this title  
 37 shall not prevent the modification of existing wages, benefits, or  
 38 terms and conditions of employment through the meet and confer  
 39 in good faith process or, in those situations in which the employees

1 are not represented by a recognized employee organization, through  
2 appropriate procedures.

3 (b) On the ~~county~~ implementation date, subject to Section  
4 12306.15 of the Welfare and Institutions Code, the Statewide  
5 Authority shall assume the predecessor agency's rights and  
6 obligations under any memorandum of understanding or agreement  
7 between the predecessor agency and a recognized employee  
8 organization that is in effect on the ~~county~~ implementation date  
9 for the duration thereof. Absent mutual consent to reopen, the  
10 terms of any transferred memorandum of understanding or  
11 agreement shall continue until the memorandum of understanding  
12 or agreement has expired. If a memorandum of understanding or  
13 agreement between a recognized employee organization and a  
14 predecessor agency has expired and has not been replaced by a  
15 successor memorandum of understanding or agreement as of the  
16 ~~county~~ implementation date, the Statewide Authority shall assume  
17 the obligation to meet and confer in good faith with the recognized  
18 employee organization.

19 (c) Notwithstanding any other provision of law, except to the  
20 extent set forth in this chapter and as limited by Section 110023,  
21 the terms and conditions of any memorandum of understanding  
22 or agreement between a predecessor agency and a recognized  
23 employee organization in effect on the ~~county~~ implementation date  
24 shall not be reduced, except by mutual agreement between the  
25 recognized employee organization and the Statewide Authority.

26 (d) Nothing in this title shall be construed to relieve any  
27 predecessor agency of its obligation to meet and confer in good  
28 faith with a recognized employee organization pursuant to the  
29 Meyers-Milias-Brown Act (Chapter 10 (commencing with Section  
30 3500) of Division 4 of Title 1) until the ~~county~~ implementation  
31 date. Nothing in this title shall permit the predecessor agency to  
32 meet and confer after the Statewide Authority assumes the  
33 predecessor agency's rights and obligations on the ~~county~~  
34 implementation date.

35 (e) With the exception of all economic terms covered by Section  
36 12306.15 of the Welfare and Institutions Code and notwithstanding  
37 any other provision of law, beginning July 1, 2012, and ending on  
38 the ~~county~~ implementation date as set forth in subdivision (a) of  
39 Section 12300.7 of the Welfare and Institutions Code, any  
40 alterations or modifications to either current or expired memoranda

1 of understanding that were in effect on July 1, 2012, and any newly  
2 negotiated memoranda of understanding or agreements reached  
3 after July 1, 2012, shall be submitted for review to the State  
4 Department of Social Services, hereafter referred to as the  
5 department. This review requirement shall not begin until a county  
6 commences transition pursuant to subdivision (g) of Section  
7 14132.275 of the Welfare and Institutions Code, and shall be  
8 performed by the department until the Statewide Authority becomes  
9 operational, after which date the Statewide Authority shall continue  
10 to perform this review requirement. If, upon review, but not later  
11 than 180 days after the county commences transition pursuant to  
12 subdivision (g) of Section 14132.275 of the Welfare and  
13 Institutions Code, before the implementation date, the department  
14 or Statewide Authority reasonably determines that there are one  
15 or more newly negotiated or amended noneconomic terms in the  
16 memorandum of understanding or agreement to which it objects  
17 for a bona fide business-related reason, the department or Statewide  
18 Authority shall provide written notice to the signatory recognized  
19 employee organization of each objection and the reason for it.  
20 Upon demand from the recognized employee organization, the  
21 department, or the Statewide Authority, those parties shall meet  
22 and confer regarding the objection and endeavor to reach agreement  
23 prior to the county implementation date. If an agreement is reached,  
24 it shall not become effective prior to the county implementation  
25 date. If an agreement is not reached by the county implementation  
26 date, the objectionable language is deemed inoperable as of the  
27 county implementation date. All terms to which no objection is  
28 made shall be deemed accepted by the Statewide Authority. If the  
29 Statewide Authority or the department fails to provide the 180  
30 days' notice of objection, it shall be deemed waived.

31 *SEC. 10. Section 110021 of the Government Code is amended*  
32 *to read:*

33 110021. If a predecessor agency is party to any memorandum  
34 of understanding or agreement with any bargaining unit that  
35 includes individual providers that contains an agency shop  
36 provision as of the effective date of this title, the predecessor  
37 agency and the employer shall be obligated to honor the terms of  
38 the agency shop provision, including indemnification provisions,  
39 if any, for the duration of the memorandum of understanding or  
40 agreement, and until the adoption of a successor memorandum of

1 understanding or agreement. However, upon the request of a  
2 recognized employee organization, an agency shop provision in  
3 effect on the ~~county~~ implementation date may be reopened for the  
4 sole purpose of renegotiating the terms of that provision in  
5 accordance with this title. The implementation of this title shall  
6 not be a cause for a new agency shop election.

7 *SEC. 11. Section 10101.1 of the Welfare and Institutions Code,*  
8 *as amended by Section 5 of Chapter 37 of the Statutes of 2013, is*  
9 *amended to read:*

10 10101.1. (a) For the 1991–92 fiscal year and each fiscal year  
11 thereafter, the state’s share of the costs of the county services block  
12 grant and the in-home supportive services administration  
13 requirements shall be 70 percent of the actual nonfederal  
14 expenditures or the amount appropriated by the Legislature for  
15 that purpose, whichever is less.

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

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

28 ~~(d) This section shall be inoperative if the Coordinated Care~~  
29 ~~Initiative becomes inoperative pursuant to Section 34 of the act~~  
30 ~~that added this subdivision.~~

31 *SEC. 12. Section 10101.1 of the Welfare and Institutions Code,*  
32 *as amended by Section 6 of Chapter 37 of the Statutes of 2013, is*  
33 *repealed.*

34 ~~10101.1. (a) For the 1991–92 fiscal year and each fiscal year~~  
35 ~~thereafter, the state’s share of the costs of the county services block~~  
36 ~~grant and the in-home supportive services administration~~  
37 ~~requirements shall be 70 percent of the actual nonfederal~~  
38 ~~expenditures or the amount appropriated by the Legislature for~~  
39 ~~that purpose, whichever is less.~~

1 ~~(b) Federal funds received under Title 20 of the federal Social~~  
2 ~~Security Act (42 U.S.C. Sec. 1397 et seq.) and appropriated by the~~  
3 ~~Legislature for the county services block grant and the in-home~~  
4 ~~supportive services administration shall be considered part of the~~  
5 ~~state share of cost and not part of the federal expenditures for this~~  
6 ~~purpose.~~

7 ~~(e) This section shall be operative only if Section 5 of the act~~  
8 ~~that added this subdivision becomes inoperative pursuant to~~  
9 ~~subdivision (d) of that Section 5.~~

10 *SEC. 13. Section 12300.5 of the Welfare and Institutions Code*  
11 *is amended to read:*

12 12300.5. (a) The California In-Home Supportive Services  
13 Authority, hereafter referred to as the Statewide Authority,  
14 established pursuant to Section 6531.5 of the Government Code,  
15 shall be the entity authorized to meet and confer in good faith  
16 regarding wages, benefits, and other terms and conditions of  
17 employment in accordance with Title 23 (commencing with Section  
18 110000) of the Government Code, with representatives of  
19 recognized employee organizations for any individual provider  
20 who is employed by a recipient of in-home supportive services  
21 described in Section 12300 after the ~~county~~ implementation date  
22 as described in subdivision (a) of Section 12300.7.

23 (b) The Statewide Authority and the Department of Human  
24 Resources and other state departments may enter into a  
25 memorandum of understanding or other agreement to have the  
26 Department of Human Resources meet and confer on behalf of the  
27 Statewide Authority for the purposes described in subdivision (a)  
28 or to provide the Statewide Authority with other services,  
29 including, but not limited to, administrative and legal services.

30 (c) The state, the Statewide Authority, or any county that has  
31 met the conditions in Section 12300.7 shall not be deemed to be  
32 the employer of any individual provider who is employed by a  
33 recipient of in-home supportive services as described in Section  
34 12300 for purposes of liability due to the negligence or intentional  
35 torts of the individual provider.

36 *SEC. 14. Section 12300.7 of the Welfare and Institutions Code*  
37 *is amended to read:*

38 12300.7. (a) ~~No sooner than March 1, 2013, the~~ *On January*  
39 *1, 2014, the* California In-Home Supportive Services Authority  
40 shall assume the responsibilities set forth in Title 23 (commencing

1 with Section 110000) of the Government Code in a county or city  
2 and county upon notification by the Director of Health Care  
3 Services that the enrollment of eligible Medi-Cal beneficiaries  
4 described in Section 14132.275 or 14182.16, or Article 5.7  
5 (commencing with Section 14186) of Chapter 7 has been completed  
6 in that county or city and county.

7 (b) A county or city and county, subject to subdivision (a) and  
8 upon notification from the Director of Health Care Services, (a),  
9 shall do one or both of the following:

10 (1) Have the entity that performed functions set forth in the  
11 county ordinance or contract in effect at the time of the notification  
12 pursuant to subdivision (a) prior to January 1, 2014, and  
13 established pursuant to Section 12301.6 continue to perform those  
14 functions, excluding subdivision (c) of that section.

15 (2) Assume the functions performed by the entity, at the time  
16 of the notification pursuant to subdivision (a) prior to January 1,  
17 2014, pursuant to Section 12301.6, excluding subdivision (c) of  
18 that section.

19 (c) If a county or city and county assumes the functions  
20 described in paragraph (2) of subdivision (b), it may establish or  
21 contract with an entity for the performance of any or all of the  
22 functions assumed.

23 *SEC. 15. Section 12302.25 of the Welfare and Institutions*  
24 *Code, as amended by Section 34 of Chapter 8 of the Statutes of*  
25 *2011, is repealed.*

26 ~~12302.25. (a) On or before January 1, 2003, each county shall~~  
27 ~~act as, or establish, an employer for in-home supportive service~~  
28 ~~providers under Section 12302.2 for the purposes of Chapter 10~~  
29 ~~(commencing with Section 3500) of Division 4 of Title 1 of the~~  
30 ~~Government Code and other applicable state or federal laws. Each~~  
31 ~~county may utilize a public authority or nonprofit consortium as~~  
32 ~~authorized under Section 12301.6, the contract mode as authorized~~  
33 ~~under Sections 12302 and 12302.1, county administration of the~~  
34 ~~individual provider mode as authorized under Sections 12302 and~~  
35 ~~12302.2 for purposes of acting as, or providing, an employer under~~  
36 ~~Chapter 10 (commencing with Section 3500) of Division 4 of Title~~  
37 ~~1 of the Government Code, county civil service personnel as~~  
38 ~~authorized under Section 12302, or mixed modes of service~~  
39 ~~authorized pursuant to this article and may establish regional~~  
40 ~~agreements in establishing an employer for purposes of this~~

1 ~~subdivision for providers of in-home supportive services. Within~~  
2 ~~30 days of the effective date of this section, the department shall~~  
3 ~~develop a timetable for implementation of this subdivision to~~  
4 ~~ensure orderly compliance by counties. Recipients of in-home~~  
5 ~~supportive services shall retain the right to choose the individuals~~  
6 ~~that provide their care and to recruit, select, train, reject, or change~~  
7 ~~any provider under the contract mode or to hire, fire, train, and~~  
8 ~~supervise any provider under any other mode of service. Upon~~  
9 ~~request of a recipient, and in addition to a county's selected method~~  
10 ~~of establishing an employer for in-home supportive service~~  
11 ~~providers pursuant to this subdivision, counties with an IHSS~~  
12 ~~caseload of more than 500 shall be required to offer an individual~~  
13 ~~provider employer option.~~

14 ~~(b) Nothing in this section shall prohibit any negotiations or~~  
15 ~~agreement regarding collective bargaining or any wage and benefit~~  
16 ~~enhancements.~~

17 ~~(c) Nothing in this section shall be construed to affect the state's~~  
18 ~~responsibility with respect to the state payroll system,~~  
19 ~~unemployment insurance, or workers' compensation and other~~  
20 ~~provisions of Section 12302.2 for providers of in-home supportive~~  
21 ~~services.~~

22 ~~(d) Prior to implementing subdivision (a), a county may establish~~  
23 ~~an advisory committee as authorized by Section 12301.3 and solicit~~  
24 ~~recommendations from the advisory committee on the preferred~~  
25 ~~mode or modes of service to be utilized in the county for in-home~~  
26 ~~supportive services.~~

27 ~~(e) If a county establishes an in-home supportive services~~  
28 ~~advisory committee pursuant to Section 12301.3, the county shall~~  
29 ~~take into account the advice and recommendations of the committee~~  
30 ~~prior to making policy and funding decisions about the program~~  
31 ~~on an ongoing basis.~~

32 ~~(f) In implementing and administering this section, no county,~~  
33 ~~public authority, nonprofit consortium, contractor, or a combination~~  
34 ~~thereof, that delivers in-home supportive services shall reduce the~~  
35 ~~hours of service for any recipient below the amount determined~~  
36 ~~to be necessary under the uniform assessment guidelines~~  
37 ~~established by the department.~~

38 ~~(g) Any agreement between a county and an entity acting as an~~  
39 ~~employer under subdivision (a) shall include a provision that~~  
40 ~~requires that funds appropriated by the state for wage increases~~

1 ~~for in-home supportive services providers be used exclusively for~~  
2 ~~that purpose. Counties or the state may undertake audits of the~~  
3 ~~entities acting as employers under the terms of subdivision (a) to~~  
4 ~~verify compliance with this subdivision.~~

5 ~~(h) On or before January 15, 2003, each county shall provide~~  
6 ~~the department with documentation that demonstrates compliance~~  
7 ~~with the January 1, 2003, deadline specified in subdivision (a).~~  
8 ~~The documentation shall include, but is not limited to, any of the~~  
9 ~~following:~~

10 ~~(1) The public authority ordinance and employee relations~~  
11 ~~procedures.~~

12 ~~(2) The invitations to bid and requests for proposal for contract~~  
13 ~~services for the contract mode.~~

14 ~~(3) An invitation to bid and request for proposal for the operation~~  
15 ~~of a nonprofit consortium.~~

16 ~~(4) A county board of supervisors' resolution resolving that the~~  
17 ~~county has chosen to act as the employer required by subdivision~~  
18 ~~(a) either by utilizing county employees, as authorized by Section~~  
19 ~~12302, to provide in-home supportive services or through county~~  
20 ~~administration of individual providers.~~

21 ~~(5) Any combination of the documentation required under~~  
22 ~~paragraphs (1) to (4), inclusive, that reflects the decision of a~~  
23 ~~county to provide mixed modes of service as authorized under~~  
24 ~~subdivision (a).~~

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

29 ~~(1) Explains the county's failure to provide the required~~  
30 ~~documentation.~~

31 ~~(2) Describes the county's plan for coming into compliance~~  
32 ~~with the requirements of this section.~~

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

36 ~~(j) Any county that fails to provide the documentation required~~  
37 ~~by subdivision (h) and also fails to provide the written notice as~~  
38 ~~allowed under subdivision (i), shall be deemed by operation of~~  
39 ~~law to be the employer of IHSS individual providers for purposes~~

1 of Chapter 10 (commencing with Section 3500) of Division 4 of  
 2 Title 1 of the Government Code as of January 15, 2003.

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

9 ~~(l) Any county deemed by operation of law, pursuant to~~  
 10 ~~subdivision (j) or (k), to be the employer of IHSS individual~~  
 11 ~~providers for purposes of Chapter 10 (commencing with Section~~  
 12 ~~3500) of Division 4 of Title 1 of the Government Code shall~~  
 13 ~~continue to act in that capacity until the county notifies the~~  
 14 ~~department that it has established another employer as permitted~~  
 15 ~~by this section, and has provided the department with the~~  
 16 ~~documentation required under subdivision (h) demonstrating the~~  
 17 ~~change.~~

18 *SEC. 16. Section 12306 of the Welfare and Institutions Code,*  
 19 *as amended by Section 8 of Chapter 37 of the Statutes of 2013, is*  
 20 *amended to read:*

21 12306. (a) The state and counties shall share the annual cost  
 22 of providing services under this article as specified in this section.

23 (b) Except as provided in subdivisions (c) and (d), the state shall  
 24 pay to each county, from the General Fund and any federal funds  
 25 received under Title XX of the federal Social Security Act available  
 26 for that purpose, 65 percent of the cost of providing services under  
 27 this article, and each county shall pay 35 percent of the cost of  
 28 providing those services.

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

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

1 (2) The department shall restore the funding reductions required  
2 by subdivision (c) of Section 12301, fully or in part, as soon as  
3 administratively practicable, if the amount appropriated from the  
4 General Fund for the 1992–93 fiscal year under this article is  
5 projected to exceed the sum of the General Fund expenditures  
6 under Section 14132.95 and the actual General Fund expenditures  
7 under this article for the 1992–93 fiscal year. The entire amount  
8 of the excess shall be applied to the restoration. Services shall not  
9 be restored under this paragraph until the Department of Finance  
10 has determined that the restoration of services would result in no  
11 additional costs to the state or to the counties relative to the  
12 combined state appropriation and county matching funds for  
13 in-home supportive services under this article in the 1992–93 fiscal  
14 year.

15 (e) For the period during which Section 12306.15 is operative,  
16 each county’s share of the costs of providing services pursuant to  
17 this article specified in subdivisions (b) and (c) shall remain, but  
18 the County IHSS Maintenance of Effort pursuant to Section  
19 12306.15 shall be in lieu of that share.

20 ~~(f) This section shall be inoperative if the Coordinated Care~~  
21 ~~Initiative becomes inoperative pursuant to Section 34 of the act~~  
22 ~~that added this subdivision.~~

23 *SEC. 17. Section 12306 of the Welfare and Institutions Code,*  
24 *as amended by Section 9 of Chapter 37 of the Statutes of 2013, is*  
25 *repealed.*

26 ~~12306. (a) The state and counties shall share the annual cost~~  
27 ~~of providing services under this article as specified in this section.~~

28 ~~(b) Except as provided in subdivisions (c) and (d), the state shall~~  
29 ~~pay to each county, from the General Fund and any federal funds~~  
30 ~~received under Title XX of the federal Social Security Act available~~  
31 ~~for that purpose, 65 percent of the cost of providing services under~~  
32 ~~this article, and each county shall pay 35 percent of the cost of~~  
33 ~~providing those services.~~

34 ~~(c) For services eligible for federal funding pursuant to Title~~  
35 ~~XIX of the federal Social Security Act under the Medi-Cal program~~  
36 ~~and, except as provided in subdivisions (b) and (d) the state shall~~  
37 ~~pay to each county, from the General Fund and any funds available~~  
38 ~~for that purpose 65 percent of the nonfederal cost of providing~~  
39 ~~services under this article, and each county shall pay 35 percent~~  
40 ~~of the nonfederal cost of providing those services.~~

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

5 ~~(2) The department shall restore the funding reductions required~~  
6 ~~by subdivision (c) of Section 12301, fully or in part, as soon as~~  
7 ~~administratively practicable, if the amount appropriated from the~~  
8 ~~General Fund for the 1992-93 fiscal year under this article is~~  
9 ~~projected to exceed the sum of the General Fund expenditures~~  
10 ~~under Section 14132.95 and the actual General Fund expenditures~~  
11 ~~under this article for the 1992-93 fiscal year. The entire amount~~  
12 ~~of the excess shall be applied to the restoration. Services shall not~~  
13 ~~be restored under this paragraph until the Department of Finance~~  
14 ~~has determined that the restoration of services would result in no~~  
15 ~~additional costs to the state or to the counties relative to the~~  
16 ~~combined state appropriation and county matching funds for~~  
17 ~~in-home supportive services under this article in the 1992-93 fiscal~~  
18 ~~year.~~

19 ~~(e) This section shall be operative only if Section 8 of the act~~  
20 ~~that added this subdivision becomes inoperative pursuant to~~  
21 ~~subdivision (f) of that Section 8.~~

22 *SEC. 18. Section 12306.1 of the Welfare and Institutions Code,*  
23 *as amended by Section 10 of Chapter 37 of the Statutes of 2013,*  
24 *is amended to read:*

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

1 (1) Each county has provided the department with  
2 documentation of the approval of the county board of supervisors  
3 of the proposed public authority or nonprofit consortium rate,  
4 including wages and related expenditures. The documentation shall  
5 be received by the department before the department and the State  
6 Department of Health Care Services may approve the increase.

7 (2) Each county has met department guidelines and regulatory  
8 requirements as a condition of receiving state participation in the  
9 rate.

10 (b) Any rate approved pursuant to subdivision (a) shall take  
11 effect commencing on the first day of the month subsequent to the  
12 month in which final approval is received from the department.  
13 The department may grant approval on a conditional basis, subject  
14 to the availability of funding.

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

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

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

39 (3) The state shall participate as provided in subdivision (c) in  
40 a total of wages and individual health benefits up to ten dollars

1 and ten cents (\$10.10) per hour, if wages have reached at least  
2 seven dollars and fifty cents (\$7.50) per hour. Counties shall  
3 determine, pursuant to the collective bargaining process provided  
4 for in subdivision (c) of Section 12301.6, what portion of the ten  
5 dollars and ten cents (\$10.10) per hour shall be used to fund wage  
6 increases above seven dollars and fifty cents (\$7.50) per hour or  
7 individual health benefit increases, or both. This paragraph shall  
8 be operative commencing with the next state fiscal year for which  
9 the May Revision forecast of General Fund revenue, excluding  
10 transfers, exceeds by at least 5 percent, the most current estimate  
11 of revenue, excluding transfers, for the year in which paragraph  
12 (2) became operative.

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

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

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

7 (2) For purposes of certifications under paragraph (1), the  
8 General Fund revenue forecast, excluding transfers, that is used  
9 for the relevant fiscal year shall be calculated in a manner that is  
10 consistent with the definition of General Fund revenues, excluding  
11 transfers, that was used by the Department of Finance in the  
12 2000–01 Governor’s Budget revenue forecast as reflected on  
13 Schedule 8 of the Governor’s Budget.

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

23 (g) For the period during which Section 12306.15 is operative,  
24 each county’s share of the costs of negotiated wage and benefit  
25 increases specified in subdivision (c) shall remain, but the County  
26 IHSS Maintenance of Effort pursuant to Section 12306.15 shall  
27 be in lieu of that share.

28 ~~(h) This section shall be inoperative if the Coordinated Care~~  
29 ~~Initiative becomes inoperative pursuant to Section 34 of the act~~  
30 ~~that added this subdivision.~~

31 *SEC. 19. Section 12306.1 of the Welfare and Institutions Code,*  
32 *as amended by Section 11 of Chapter 37 of the Statutes of 2013,*  
33 *is repealed.*

34 ~~12306.1. (a) When any increase in provider wages or benefits~~  
35 ~~is negotiated or agreed to by a public authority or nonprofit~~  
36 ~~consortium under Section 12301.6, then the county shall use~~  
37 ~~county-only funds to fund both the county share and the state share,~~  
38 ~~including employment taxes, of any increase in the cost of the~~  
39 ~~program, unless otherwise provided for in the annual Budget Act~~  
40 ~~or appropriated by statute. No increase in wages or benefits~~

1 ~~negotiated or agreed to pursuant to this section shall take effect~~  
2 ~~unless and until, prior to its implementation, the department has~~  
3 ~~obtained the approval of the State Department of Health Care~~  
4 ~~Services for the increase pursuant to a determination that it is~~  
5 ~~consistent with federal law and to ensure federal financial~~  
6 ~~participation for the services under Title XIX of the federal Social~~  
7 ~~Security Act, and unless and until all of the following conditions~~  
8 ~~have been met:~~

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

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

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

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

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

36 ~~(2) The state shall participate as provided in subdivision (c) in~~  
37 ~~a total of wages and individual health benefits up to nine dollars~~  
38 ~~and ten cents (\$9.10) per hour, if wages have reached at least seven~~  
39 ~~dollars and fifty cents (\$7.50) per hour. Counties shall determine,~~  
40 ~~pursuant to the collective bargaining process provided for in~~

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

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

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

34 ~~(5) The state shall participate as provided in subdivision (e) in  
35 a total cost of wages and individual health benefits up to twelve  
36 dollars and ten cents (\$12.10) per hour, if wages have reached at  
37 least seven dollars and fifty cents (\$7.50) per hour. Counties shall  
38 determine, pursuant to the collective bargaining process provided  
39 for in subdivision (e) of Section 12301.6, what portion of the  
40 twelve dollars and ten cents (\$12.10) per hour shall be used to fund~~

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

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 (5), inclusive, of subdivision~~  
29 ~~(d).~~

30 ~~(g) This section shall be operative only if Section 10 of the act~~  
31 ~~that added this subdivision becomes inoperative pursuant to~~  
32 ~~subdivision (h) of that Section 10.~~

33 *SEC. 20. Section 14186.35 of the Welfare and Institutions Code*  
34 *is amended to read:*

35 14186.35. (a) Not sooner than March 1, 2013, in-home  
36 supportive services (IHSS) shall be a Medi-Cal benefit available  
37 through managed care health plans in a county where this article  
38 is effective. Managed care health plans shall cover IHSS in  
39 accordance with the standards and requirements set forth in Article

1 7 (commencing with Section 12300) of Chapter 3. Specifically,  
2 managed care health plans shall do all of the following:

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

5 (2) Ensure recipients retain the right to be the employer, to  
6 select, engage, direct, supervise, schedule, and terminate IHSS  
7 providers in accordance with Section 12301.6.

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

10 (4) Create a care coordination team, as needed, unless the  
11 consumer objects. If the consumer is an IHSS recipient, his or her  
12 participation and the participation of his or her provider shall be  
13 at the recipient's option. The care coordination team shall include  
14 the consumer, his or her authorized representative, managed care  
15 health plan, county social services agency, Community Based  
16 Adult Services (CBAS) case manager for CBAS clients,  
17 Multipurpose Senior Services Program (MSSP) case manager for  
18 MSSP clients, and may include others as identified by the  
19 consumer.

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

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

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

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

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

- 1 (B) Following the ~~notification pursuant to~~ *implementation date*  
2 *set forth in* subdivision (a) of Section 12300.7, enter into a  
3 memorandum of understanding with the county agencies to perform  
4 the following activities:
- 5 (i) Assess, approve, and authorize each recipient's initial and  
6 continuing need for services pursuant to Article 7 (commencing  
7 with Section 12300) of Chapter 3. County agency assessments  
8 shall be shared with the care coordination teams established under  
9 paragraph (4), when applicable, and the county agency thereafter  
10 may receive and consider additional input from the care  
11 coordination team.
- 12 (ii) Plans may contract with counties for additional assessments  
13 for purposes of paragraph (6) of subdivision (b) of Section 14186.
- 14 (iii) Enroll providers, conduct provider orientation, and retain  
15 enrollment documentation pursuant to Sections 12301.24 and  
16 12305.81.
- 17 (iv) Conduct criminal background checks on all potential  
18 providers and exclude providers consistent with the provisions set  
19 forth in Sections 12305.81, 12305.86, and 12305.87.
- 20 (v) Provide assistance to IHSS recipients in finding eligible  
21 providers through the establishment of a provider registry as well  
22 as provide training for providers and recipients as set forth in  
23 Section 12301.6.
- 24 (vi) Refer all providers to the California In-Home Supportive  
25 Services Authority or nonprofit consortium for the purposes of  
26 wages, benefits, and other terms and conditions of employment in  
27 accordance with subdivision (a) of Section 12300.7 and Title 23  
28 (commencing with Section 110000) of the Government 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 (C) A county may contract with an entity or may establish a  
7 public authority pursuant to Section 12301.6 for the performance  
8 of any or all of the activities set forth in a contract with a managed  
9 care health plan pursuant to this section.

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

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

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

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

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

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

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

39 (12) In a county where services are provided in the homemaker  
40 mode, enter into a contract with the county to implement the

1 provision of services pursuant to the homemaker mode as set forth  
2 in Section 12302.

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

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

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

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

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

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

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

24 (4) The ability to request a reassessment pursuant to Section  
25 12301.1.

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

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

38 (e) In accordance with Section 14186.2, as the provision of  
39 IHSS transitions to managed care health plans in a phased-in

1 approach, the State Department of Social Services shall do all of  
2 the following:

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

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

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

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

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

22 *SEC. 21. Section 34 of Chapter 37 of the Statutes of 2013 is*  
23 *amended to read:*

24 Sec. 34. (a) At least 30 days prior to enrollment of beneficiaries  
25 into the Coordinated Care Initiative, the Director of Finance shall  
26 estimate the amount of net General Fund savings obtained from  
27 the implementation of the Coordinated Care Initiative. This  
28 estimate shall take into account any net savings to the General  
29 Fund achieved through the tax imposed pursuant to Article 5  
30 (commencing with Section 6174) of Chapter 2 of Part 1 of Division  
31 2 of the Revenue and Taxation Code Article 5 (commencing with  
32 Section 6174).

33 (b) (1) By January 10 for each fiscal year after implementation  
34 of the Coordinated Care Initiative, for as long as the Coordinated  
35 Care Initiative remains operative, the Director of Finance shall  
36 estimate the amount of net General Fund savings obtained from  
37 the implementation of the Coordinated Care Initiative.

38 (2) Savings shall be determined under this subdivision by  
39 comparing the estimated costs of the Coordinated Care Initiative,  
40 as approved by the federal government, and the estimated costs of

1 the program if the Coordinated Care Initiative were not operative.  
2 The determination shall also include any net savings to the General  
3 Fund achieved through the tax imposed pursuant to Article 5  
4 (commencing with Section 6174) of Chapter 2 of Part 1 of Division  
5 2 of the Revenue and Taxation Code.

6 (3) The estimates prepared by the Director of Finance, in  
7 consultation with the Director of Health Care Services, shall be  
8 provided to the Legislature.

9 (c) (1) Notwithstanding any other law, if, at least 30 days prior  
10 to enrollment of beneficiaries into the Coordinated Care Initiative,  
11 the Director of Finance estimates pursuant to subdivision (a) that  
12 the Coordinated Care Initiative will not generate net General Fund  
13 savings, then the activities to implement the Coordinated Care  
14 Initiative shall be suspended immediately and the Coordinated  
15 Care Initiative shall become inoperative July 1, 2014.

16 (2) If the Coordinated Care Initiative becomes inoperative  
17 pursuant to this subdivision, the Director of Health Care Services  
18 shall provide any necessary notifications to any affected entities.

19 (3) For purposes of this subdivision and subdivision (d) only,  
20 “Coordinated Care Initiative” means all of the following statutes  
21 and any amendments to the following:

22 (A) Sections 14132.275, 14183.6, and 14301.1 of the Welfare  
23 and Institutions Code, as amended by ~~this act~~ *Chapter 37 of the*  
24 *Statutes of 2013*.

25 (B) Sections 14132.276, 14132.277, 14182.16, 14182.17,  
26 14182.18, and 14301.2 of the Welfare and Institutions Code.

27 (C) Article 5.7 (commencing with Section 14186) of Chapter  
28 7 of Part 3 of Division 9 of the Welfare and Institutions Code.

29 ~~(D) Title 23 (commencing with Section 110000) of the~~  
30 ~~Government Code.~~

31 ~~(E) Section 6531.5 of the Government Code.~~

32 ~~(F) Section 6253.2 of the Government Code, as amended by~~  
33 ~~this act.~~

34 ~~(G)~~

35 ~~(D) Sections 12300.5, 12300.6, 12300.7, 12302.6, 12306.15,~~  
36 ~~12330, 14186.35, and 14186.36 of the Welfare and Institutions~~  
37 ~~Code.~~

38 ~~(H) Sections 10101.1, 12306, and 12306.1 of the Welfare and~~  
39 ~~Institutions Code, as amended by this act.~~

40 ~~(I)~~

1     (E) The amendments made to ~~Sections~~ *Section* 12302.21 and  
2 12302.25 of the Welfare and Institutions Code, as made by Chapter  
3 439 of the Statutes of 2012.

4     (d) (1) Notwithstanding any other law, and beginning in 2015,  
5 if the Director of Finance estimates pursuant to subdivision (b)  
6 that the Coordinated Care Initiative will not generate net General  
7 Fund savings, the Coordinated Care Initiative shall become  
8 inoperative January 1 of the following calendar year, except as  
9 follows: *year*.

10     (A) ~~Section 12306.15 of the Welfare and Institutions Code shall~~  
11 ~~become inoperative as of July 1 of that same calendar year.~~

12     (B) ~~For any agreement that has been negotiated and approved~~  
13 ~~by the Statewide Authority, the Statewide Authority shall continue~~  
14 ~~to retain its authority pursuant to Section 6531.5 and Title 23~~  
15 ~~(commencing with Section 110000) of the Government Code and~~  
16 ~~Sections 12300.5, 12300.6, 12300.7, and 12302.6 of the Welfare~~  
17 ~~and Institutions Code, and shall remain the employer of record for~~  
18 ~~all individual providers covered by the agreement until the~~  
19 ~~agreement expires or is subject to renegotiation, whereby the~~  
20 ~~authority of the Statewide Authority shall terminate and the county~~  
21 ~~shall be the employer of record in accordance with Section~~  
22 ~~12302.25 of the Welfare and Institutions Code and may establish~~  
23 ~~an employer of record pursuant to Section 12301.6 of the Welfare~~  
24 ~~and Institutions Code.~~

25     (C) ~~For an agreement that has been assumed by the Statewide~~  
26 ~~Authority that was negotiated and approved by a predecessor~~  
27 ~~agency, the Statewide Authority shall cease being the employer~~  
28 ~~of record and the county shall be reestablished as the employer of~~  
29 ~~record for purposes of bargaining and in accordance with Section~~  
30 ~~12302.25 of the Welfare and Institutions Code, and may establish~~  
31 ~~an employer of record pursuant to Section 12301.6 of the Welfare~~  
32 ~~and Institutions Code.~~

33     (2) ~~If the Coordinated Care Initiative becomes inoperative~~  
34 ~~pursuant to this subdivision, the Director of Health Care Services~~  
35 ~~shall provide any necessary notifications to any affected entities.~~

36     ~~SECTION 1. The Legislature finds and declares that the~~  
37 ~~purpose of this act is to approve an agreement pursuant to Section~~  
38 ~~3517.5 of the Government Code entered into by the state employer~~  
39 ~~and State Bargaining Unit 16.~~

1 ~~SEC. 2. The provisions of the memorandum of understanding~~  
2 ~~prepared pursuant to Section 3517.5 of the Government Code and~~  
3 ~~entered into by the state employer and State Bargaining Unit 16~~  
4 ~~that require the expenditure of funds are hereby approved for the~~  
5 ~~purposes of subdivision (b) of Section 3517.6 of the Government~~  
6 ~~Code.~~

7 ~~SEC. 3. The provisions of the memorandum of understanding~~  
8 ~~approved by Section 2 of this act that require the expenditure of~~  
9 ~~funds shall not take effect unless funds for these provisions are~~  
10 ~~specifically appropriated by the Legislature. If funds for these~~  
11 ~~provisions are not specifically appropriated by the Legislature, the~~  
12 ~~state employer and the affected employee organization shall meet~~  
13 ~~and confer to renegotiate the affected provisions.~~

14 ~~SEC. 4. Notwithstanding Section 3517.6 of the Government~~  
15 ~~Code, the provisions of the memorandum of understanding~~  
16 ~~included in Section 2 that require the expenditure of funds shall~~  
17 ~~become effective even if the provisions of the memorandum of~~  
18 ~~understanding are approved by the Legislature in legislation other~~  
19 ~~than the annual Budget Act.~~