

Introduced by Senator Berryhill

February 22, 2013

An act to amend Section 12306.1 of the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

SB 579, as introduced, Berryhill. In-home supportive 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 requires, except as provided, a county to use county-only funds to fund both the county share and the state share when any increase in IHSS provider wages or benefits is negotiated or agreed to by a public authority or nonprofit consortium, as specified.

This bill would make a technical, nonsubstantive change to that provision.

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

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

- 1 SECTION 1. Section 12306.1 of the Welfare and Institutions
- 2 Code, as amended by Section 38 of Chapter 439 of the Statutes of
- 3 2012, is amended to read:
- 4 12306.1. (a) When ~~any~~ *an* increase in provider wages or
- 5 benefits is negotiated or agreed to by a public authority or nonprofit
- 6 consortium under Section 12301.6, then the county shall use
- 7 county-only funds to fund both the county share and the state share,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (2) For purposes of certifications under paragraph (1), the
35 General Fund revenue forecast, excluding transfers, that is used
36 for the relevant fiscal year shall be calculated in a manner that is
37 consistent with the definition of General Fund revenues, excluding
38 transfers, that was used by the Department of Finance in the
39 2000–01 Governor’s Budget revenue forecast as reflected on
40 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) This section shall become operative only if Chapter 45 of
11 the Statutes of 2012 is deemed inoperative pursuant to Section 15
12 of that chapter.

13 SEC. 2. Section 12306.1 of the Welfare and Institutions Code,
14 as amended by Section 39 of Chapter 439 of the Statutes of 2012,
15 is amended to read:

16 12306.1. (a) When ~~any~~ *an* increase in provider wages or
17 benefits is negotiated or agreed to by a public authority or nonprofit
18 consortium under Section 12301.6, then the county shall use
19 county-only funds to fund both the county share and the state share,
20 including employment taxes, of any increase in the cost of the
21 program, unless otherwise provided for in the annual Budget Act
22 or appropriated by statute. No increase in wages or benefits
23 negotiated or agreed to pursuant to this section shall take effect
24 unless and until, prior to its implementation, the department has
25 obtained the approval of the State Department of Health Care
26 Services for the increase pursuant to a determination that it is
27 consistent with federal law and to ensure federal financial
28 participation for the services under Title XIX of the federal Social
29 Security Act, and unless and until all of the following conditions
30 have been met:

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

37 (2) Each county has met department guidelines and regulatory
38 requirements as a condition of receiving state participation in the
39 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
37 issued by the courts have prevented the state from implementing
38 the 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) For the period during which Section 12306.15 is operative,
31 each county’s share of the costs of negotiated wage and benefit
32 increases specified in subdivision (c) shall remain, but the County
33 IHSS Maintenance of Effort pursuant to Section 12306.15 shall
34 be in lieu of that share.

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