

ASSEMBLY BILL

No. 211

Introduced by Assembly Member Gomez

**(Principal coauthors: Assembly Members Alejo and Roger
Hernández)**

**(Coauthors: Assembly Members Calderon, Chiu, Chu, Gipson,
Levine, Medina, Rodriguez, Thurmond, and Weber)**

(Coauthors: Senators Cannella and Hall)

February 2, 2015

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, 12301.6, 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 human services.

LEGISLATIVE COUNSEL'S DIGEST

AB 211, as introduced, Gomez. 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 plans in specified counties. Existing law 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 required to be completed before the Statewide Authority assumes specified responsibilities. Existing law requires the Statewide Authority, no sooner than March 1, 2013, to assume specified responsibilities in a 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. Under existing law, the date of assumption of these responsibilities by the Statewide Authority is known as the county implementation date.

This bill would, instead, make the implementation date January 1, 2016, 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.

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
11 disclosure pursuant to this chapter, except as provided in
12 subdivision (b).

13 (b) Copies of names, addresses, and telephone numbers of
14 persons described in subdivision (a) shall be made available, upon
15 request, to an exclusive bargaining agent and to any labor
16 organization seeking representation rights pursuant to ~~Section~~
17 ~~12301.6 or 12302.25 of the Welfare and Institutions Code or the~~
18 ~~In-Home Supportive Services Employer-Employee Relations Act~~
19 ~~(Title 23 (commencing with Section 110000))~~. This information
20 shall not be used by the receiving entity for any purpose other than
21 the employee organizing, representation, and assistance activities
22 of the labor organization.

23 (c) This section applies solely to individuals who provide
24 services under the In-Home Supportive Services Program (Article
25 7 (commencing with Section 12300) of Chapter 3 of Part 3 of
26 Division 9 of the Welfare and Institutions Code), the Personal Care
27 Services Program pursuant to Section 14132.95 of the Welfare
28 and Institutions Code, the In-Home Supportive Services Plus
29 Option pursuant to Section 14132.952 of the Welfare and
30 Institutions Code, or the Community First Choice Option pursuant
31 to Section 14132.956 of the Welfare and Institutions Code.

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

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

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

~~6253.2. (a) Notwithstanding any other provision of this chapter to the contrary, information regarding persons paid by the state to provide in-home supportive services pursuant to Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code or personal care services pursuant to Section 14132.95 of the Welfare and Institutions Code, is not subject to public disclosure pursuant to this chapter, except as provided in subdivision (b).~~

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

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

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

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

4 SEC. 3. Section 110003 of the Government Code is amended
5 to read:

6 110003. As used in this title:

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

9 (b) “Employee” or “individual provider” means any person
10 authorized to provide in-home supportive services pursuant to
11 Article 7 (commencing with Section 12300) of Chapter 3 of Part
12 3 of Division 9 of the Welfare and Institutions Code, and Sections
13 14132.95, 14132.952, and 14132.956 of the Welfare and
14 Institutions Code, pursuant to the individual provider mode, as
15 referenced in Section 12302.2 of the Welfare and Institutions Code.
16 As used in this title, “employee” or “individual provider” does not
17 include any person providing in-home supportive services pursuant
18 to the county-employed homemaker mode or the contractor mode,
19 as authorized in Section 12302 of the Welfare and Institutions
20 Code. Individual providers shall not be deemed to be employees
21 of the Statewide Authority for any other purpose, except as
22 expressly set forth in this title.

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

27 (d) “Employer” means, for the purposes of collective bargaining,
28 the Statewide Authority established pursuant to Section 6531.5.
29 The in-home supportive services recipient shall be the employer
30 of an individual in-home supportive services provider with the
31 unconditional and exclusive right to hire, fire, and supervise his
32 or her provider.

33 (e) “In-home supportive services” or “IHSS” means services
34 provided pursuant to Article 7 (commencing with Section 12300)
35 of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions
36 Code, and Sections 14132.95, 14132.952, and 14132.956 of the
37 Welfare and Institutions Code.

38 (f) “In-home supportive services recipient” means the individual
39 who receives the in-home supportive services provided by the
40 individual provider. The in-home supportive services recipient is

1 the employer for the purposes of hiring, firing, and supervising
2 his or her respective individual provider.

3 (g) “Mediation” means effort by an impartial third party to assist
4 in reconciling a dispute regarding wages, benefits, and other terms
5 and conditions of employment, as defined in Section 110023,
6 between representatives of the employer and the recognized
7 employee organization or recognized employee organizations
8 through interpretation, suggestion, and advice.

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

17 (i) “Predecessor agency” means a county or an entity established
18 pursuant to Section 12301.6 of the Welfare and Institutions Code
19 before the effective date of this title: *January 1, 2016*.

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

22 (1) Before the ~~county~~ implementation date as described in
23 subdivision (a) of Section 12300.7 of the Welfare and Institutions
24 Code, by a county or an entity established pursuant to Section
25 12301.6 of the Welfare and Institutions Code, as the representative
26 of individual providers in its jurisdiction.

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

31 (k) “Statewide Authority” means the California In-Home
32 Supportive Services Authority established pursuant to Section
33 6531.5.

34 SEC. 4. Section 110005 of the Government Code is amended
35 to read:

36 110005. For the purposes of this title, the ~~county~~
37 implementation date is defined in subdivision (a) of Section
38 12300.7 of the Welfare and Institutions Code.

39 SEC. 5. Section 110006 of the Government Code is amended
40 to read:

1 110006. For purposes of collective bargaining, and as expressly
2 set forth in subdivision (d) of Section 110003, the Statewide
3 Authority is deemed to be the employer of record of individual
4 providers in each county as of the ~~county~~ implementation date.
5 In-home supportive services recipients shall retain the right to hire,
6 fire, and supervise the work of the individual providers providing
7 services to them.

8 SEC. 6. Section 110007 of the Government Code is amended
9 to read:

10 110007. Individual providers employed by any predecessor
11 agency as of the ~~county~~ implementation date shall retain employee
12 status and shall not be required by the Statewide Authority to
13 requalify to receive payment for providing services pursuant to
14 Article 7 (commencing with Section 12300) of Chapter 3 of Part
15 3 of Division 9 of the Welfare and Institutions Code. In the same
16 manner as set forth in subdivision (e) of Section 12305.86 of the
17 Welfare and Institutions Code, the Statewide Authority shall accept
18 a clearance that was obtained or accepted by any predecessor
19 agency pursuant to Article 7 (commencing with Section 12300)
20 of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions
21 Code. Existence of a clearance shall be determined by verification
22 through the case management, information, and payroll system of
23 the predecessor agency that the predecessor agency has deemed
24 the provider to be eligible to receive payment for providing services
25 pursuant to Article 7 (commencing with Section 12300) of Chapter
26 3 of Part 3 of Division 9 of the Welfare and Institutions Code.

27 SEC. 7. Section 110008 of the Government Code is amended
28 to read:

29 110008. On the ~~county~~ implementation date, separate
30 bargaining units shall be created consistent with the bargaining
31 units that have been recognized by predecessor agencies.
32 Bargaining units consisting of employees in a single county shall
33 be the only appropriate unit for collective bargaining under this
34 title. In those counties where no recognized employee organization
35 exists as of the ~~county~~ implementation date, a bargaining unit
36 consisting of all employees in that county shall be deemed an
37 appropriate unit for collective bargaining.

38 SEC. 8. Section 110009 of the Government Code is amended
39 to read:

1 110009. If, on the ~~county~~ implementation date, individual
2 providers are represented by a recognized employee organization,
3 the Statewide Authority shall be deemed the successor employer
4 of the predecessor agency for the purposes of negotiating a
5 collective bargaining agreement, and shall be obligated to recognize
6 and to meet and confer in good faith with the recognized employee
7 organization on all matters within the scope of representation, as
8 defined in Section 110023, as to those individual providers.

9 SEC. 9. Section 110011 of the Government Code is amended
10 to read:

11 110011. (a) Except as otherwise expressly provided in this
12 title, the enactment of this title shall not be a cause for the employer
13 or any predecessor agency to modify or eliminate any existing
14 memorandum of agreement or understanding, or to modify existing
15 wages, benefits, or other terms and conditions of employment.
16 Except to the extent set forth in this title, the enactment of this title
17 shall not prevent the modification of existing wages, benefits, or
18 terms and conditions of employment through the meet and confer
19 in good faith process or, in those situations in which the employees
20 are not represented by a recognized employee organization, through
21 appropriate procedures.

22 (b) On the ~~county~~ implementation date, subject to Section
23 12306.15 of the Welfare and Institutions Code, the Statewide
24 Authority shall assume the predecessor agency's rights and
25 obligations under any memorandum of understanding or agreement
26 between the predecessor agency and a recognized employee
27 organization that is in effect on the ~~county~~ implementation date
28 for the duration thereof. Absent mutual consent to reopen, the
29 terms of any transferred memorandum of understanding or
30 agreement shall continue until the memorandum of understanding
31 or agreement has expired. If a memorandum of understanding or
32 agreement between a recognized employee organization and a
33 predecessor agency has expired and has not been replaced by a
34 successor memorandum of understanding or agreement as of the
35 ~~county~~ implementation date, the Statewide Authority shall assume
36 the obligation to meet and confer in good faith with the recognized
37 employee organization.

38 (c) Notwithstanding any other provision of law, except to the
39 extent set forth in this chapter and as limited by Section 110023,
40 the terms and conditions of any memorandum of understanding

1 or agreement between a predecessor agency and a recognized
2 employee organization in effect on the ~~county~~ implementation date
3 shall not be reduced, except by mutual agreement between the
4 recognized employee organization and the Statewide Authority.

5 (d) Nothing in this title shall be construed to relieve any
6 predecessor agency of its obligation to meet and confer in good
7 faith with a recognized employee organization pursuant to the
8 Meyers-Milius-Brown Act (Chapter 10 (commencing with Section
9 3500) of Division 4 of Title 1) until the ~~county~~ implementation
10 date. Nothing in this title shall permit the predecessor agency to
11 meet and confer after the Statewide Authority assumes the
12 predecessor agency's rights and obligations on the ~~county~~
13 implementation date.

14 (e) With the exception of all economic terms covered by Section
15 12306.15 of the Welfare and Institutions Code and notwithstanding
16 any other provision of law, beginning July 1, 2012, and ending on
17 the ~~county~~ implementation date as set forth in subdivision (a) of
18 Section 12300.7 of the Welfare and Institutions Code, any
19 alterations or modifications to either current or expired memoranda
20 of understanding that were in effect on July 1, 2012, and any newly
21 negotiated memoranda of understanding or agreements reached
22 after July 1, 2012, shall be submitted for review to the State
23 Department of Social Services, hereafter referred to as the
24 department. This review ~~requirement shall not begin until a county~~
25 ~~commences transition pursuant to subdivision (g) of Section~~
26 ~~14132.275 of the Welfare and Institutions Code, and shall be~~
27 ~~performed by the department until the Statewide Authority becomes~~
28 ~~operational, after which date the Statewide Authority shall continue~~
29 ~~to perform this review requirement.~~ *review.* If, upon review, but
30 not later than 180 days ~~after before the county commences~~
31 ~~transition pursuant to subdivision (g) of Section 14132.275 of~~
32 ~~implementation date, the Welfare and Institutions Code, the~~
33 department or Statewide Authority reasonably determines that
34 there are one or more newly negotiated or amended noneconomic
35 terms in the memorandum of understanding or agreement to which
36 it objects for a bona fide business-related reason, the department
37 or Statewide Authority shall provide written notice to the signatory
38 recognized employee organization of each objection and the reason
39 for it. Upon demand from the recognized employee organization,
40 the department, or the Statewide Authority, those parties shall meet

1 and confer regarding the objection and endeavor to reach agreement
2 prior to the ~~county~~ implementation date. If an agreement is reached,
3 it shall not become effective prior to the ~~county~~ implementation
4 date. If an agreement is not reached by the ~~county~~ implementation
5 date, the objectionable language is deemed inoperable as of the
6 ~~county~~ implementation date. All terms to which no objection is
7 made shall be deemed accepted by the Statewide Authority. If the
8 Statewide Authority or the department fails to provide the 180
9 days' notice of objection, it shall be deemed waived.

10 SEC. 10. Section 110021 of the Government Code is amended
11 to read:

12 110021. If a predecessor agency is party to any memorandum
13 of understanding or agreement with any bargaining unit that
14 includes individual providers that contains an agency shop
15 provision as of the effective date of this title, the predecessor
16 agency and the employer shall be obligated to honor the terms of
17 the agency shop provision, including indemnification provisions,
18 if any, for the duration of the memorandum of understanding or
19 agreement, and until the adoption of a successor memorandum of
20 understanding or agreement. However, upon the request of a
21 recognized employee organization, an agency shop provision in
22 effect on the ~~county~~ implementation date may be reopened for the
23 sole purpose of renegotiating the terms of that provision in
24 accordance with this title. The implementation of this title shall
25 not be a cause for a new agency shop election.

26 SEC. 11. Section 10101.1 of the Welfare and Institutions Code,
27 as amended by Section 5 of Chapter 37 of the Statutes of 2013, is
28 amended to read:

29 10101.1. (a) For the 1991–92 fiscal year and each fiscal year
30 thereafter, the state's share of the costs of the county services block
31 grant and the in-home supportive services administration
32 requirements shall be 70 percent of the actual nonfederal
33 expenditures or the amount appropriated by the Legislature for
34 that purpose, whichever is less.

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

1 (c) For the period during which Section 12306.15 is operative,
2 each county's share of the nonfederal costs of the county services
3 block grant and the in-home supportive services administration
4 requirements as specified in subdivision (a) shall remain, but the
5 County IHSS Maintenance of Effort pursuant to Section 12306.15
6 shall be in lieu of that share.

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

10 SEC. 12. Section 10101.1 of the Welfare and Institutions Code,
11 as amended by Section 6 of Chapter 37 of the Statutes of 2013, is
12 repealed.

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

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

25 ~~(c) This section shall be operative only if Section 5 of the act~~
26 ~~that added this subdivision becomes inoperative pursuant to~~
27 ~~subdivision (d) of that Section 5.~~

28 SEC. 13. Section 12300.5 of the Welfare and Institutions Code
29 is amended to read:

30 12300.5. (a) The California In-Home Supportive Services
31 Authority, hereafter referred to as the Statewide Authority,
32 established pursuant to Section 6531.5 of the Government Code,
33 shall be the entity authorized to meet and confer in good faith
34 regarding wages, benefits, and other terms and conditions of
35 employment in accordance with Title 23 (commencing with Section
36 110000) of the Government Code, with representatives of
37 recognized employee organizations for any individual provider
38 who is employed by a recipient of in-home supportive services
39 described in Section 12300 after the county implementation date
40 as described in subdivision (a) of Section 12300.7.

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

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

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

12300.7. (a) ~~No sooner than March 1, 2013, On January 1, 2016, the California In-Home Supportive Services Authority shall assume the responsibilities set forth in Title 23 (commencing with Section 110000) of the Government Code 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 Section 14132.275 or 14182.16, or Article 5.7 (commencing with Section 14186) of Chapter 7 has been completed in that county or city and county. Code.~~

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

(1) Have the entity that performed functions set forth in the county ordinance or contract in effect ~~at the time of the notification pursuant prior to subdivision (a) January 1, 2016, and established pursuant to Section 12301.6~~ 12301.6, continue to perform those functions, ~~excluding subdivision (c) of that section. except the functions described in subdivision (a).~~

(2) Assume the functions performed by the entity, ~~at the time of the notification pursuant described in paragraph (1) prior to subdivision (a), January 1, 2016, pursuant to Section 12301.6, excluding subdivision (c) of that section. except the functions described in subdivision (a).~~

(c) If a county or city and county assumes the functions described in paragraph (2) of subdivision (b), it may establish or

1 contract with an entity for the performance of any or all of the
2 functions assumed. *In-home supportive services recipients shall*
3 *retain the right to hire, fire, and supervise the work of the*
4 *individual providers providing services to them.*

5 SEC. 15. Section 12301.6 of the Welfare and Institutions Code
6 is amended to read:

7 12301.6. (a) Notwithstanding Sections 12302 and 12302.1, a
8 county board of supervisors may, at its option, elect to do either
9 of the following:

10 (1) Contract with a nonprofit consortium to provide for the
11 delivery of in-home supportive services.

12 (2) Establish, by ordinance, a public authority to provide for
13 the delivery of in-home supportive services.

14 (b) (1) To the extent that a county elects to establish a public
15 authority pursuant to paragraph (2) of subdivision (a), the enabling
16 ordinance shall specify the membership of the governing body of
17 the public authority, the qualifications for individual members, the
18 manner of appointment, selection, or removal of members, how
19 long they shall serve, and other matters as the board of supervisors
20 deems necessary for the operation of the public authority.

21 (2) A public authority established pursuant to paragraph (2) of
22 subdivision (a) shall be both of the following:

23 (A) An entity separate from the county, and shall be required
24 to file the statement required by Section 53051 of the Government
25 Code.

26 (B) A corporate public body, exercising public and essential
27 governmental functions and that has all powers necessary or
28 convenient to carry out the delivery of in-home supportive services,
29 including the power to contract for services pursuant to Sections
30 12302 and 12302.1 and that makes or provides for direct payment
31 to a provider chosen by the recipient for the purchase of services
32 pursuant to Sections 12302 and 12302.2. Employees of the public
33 authority shall not be employees of the county for any purpose.

34 (3) (A) As an alternative, the enabling ordinance may designate
35 the board of supervisors as the governing body of the public
36 authority.

37 (B) Any enabling ordinance that designates the board of
38 supervisors as the governing body of the public authority shall
39 also specify that no fewer than 50 percent of the membership of
40 the advisory committee shall be individuals who are current or

1 past users of personal assistance services paid for through public
2 or private funds or recipients of services under this article.

3 (C) If the enabling ordinance designates the board of supervisors
4 as the governing body of the public authority, it shall also require
5 the appointment of an advisory committee of not more than 11
6 individuals who shall be designated in accordance with
7 subparagraph (B).

8 (D) Prior to making designations of committee members
9 pursuant to subparagraph (C), or governing body members in
10 accordance with paragraph (4), the board of supervisors shall solicit
11 recommendations of qualified members of either the governing
12 body of the public authority or of any advisory committee through
13 a fair and open process that includes the provision of reasonable
14 written notice to, and a reasonable response time by, members of
15 the general public and interested persons and organizations.

16 (4) If the enabling ordinance does not designate the board of
17 supervisors as the governing body of the public authority, the
18 enabling ordinance shall require the membership of the governing
19 body to meet the requirements of subparagraph (B) of paragraph
20 (3).

21 ~~(e) (1) Any public authority created pursuant to this section~~
22 ~~shall be deemed to be the employer of in-home supportive services~~
23 ~~personnel referred to recipients under paragraph (3) of subdivision~~
24 ~~(e) within the meaning of Chapter 10 (commencing with Section~~
25 ~~3500) of Division 4 of Title 1 of the Government Code. Recipients~~
26 ~~shall retain the right to hire, fire, and supervise the work of any~~
27 ~~in-home supportive services personnel providing services to them.~~

28 ~~(2) (A) Any nonprofit consortium contracting with a county~~
29 ~~pursuant to this section shall be deemed to be the employer of~~
30 ~~in-home supportive services personnel referred to recipients~~
31 ~~pursuant to paragraph (3) of subdivision (e) for the purposes of~~
32 ~~collective bargaining over wages, hours, and other terms and~~
33 ~~conditions of employment.~~

34 ~~(B) Recipients shall retain the right to hire, fire, and supervise~~
35 ~~the work of any in-home supportive services personnel providing~~
36 ~~services for them.~~

37 ~~(d)~~

38 ~~(c) A public authority established pursuant to this section or a~~
39 ~~nonprofit consortium contracting with a county pursuant to this~~
40 ~~section, when providing for the delivery of services under this~~

1 article by contract in accordance with Sections 12302 and 12302.1
2 or by direct payment to a provider chosen by a recipient in
3 accordance with Sections 12302 and 12302.2, shall comply with
4 and be subject to, all statutory and regulatory provisions applicable
5 to the respective delivery mode.

6 ~~(e)~~

7 (d) Any nonprofit consortium contracting with a county pursuant
8 to this section or any public authority established pursuant to this
9 section shall provide for all of the following functions under this
10 article, but shall not be limited to those functions:

11 (1) The provision of assistance to recipients in finding in-home
12 supportive services personnel through the establishment of a
13 registry.

14 (2) (A) (i) The investigation of the qualifications and
15 background of potential personnel. Upon the effective date of the
16 amendments to this section made during the 2009–10 Fourth
17 Extraordinary Session of the Legislature, the investigation with
18 respect to any provider in the registry or prospective registry
19 applicant shall include criminal background checks requested by
20 the nonprofit consortium or public authority and conducted by the
21 Department of Justice pursuant to Section 15660, for those public
22 authorities or nonprofit consortia using the agencies on the effective
23 date of the amendments to this section made during the 2009–10
24 Fourth Extraordinary Session of the Legislature. Criminal
25 background checks shall be performed no later than July 1, 2010,
26 for any provider who is already on the registry on the effective
27 date of amendments to this section made during the 2009–10 Fourth
28 Extraordinary Session of the Legislature, for whom a criminal
29 background check pursuant to this section has not previously been
30 provided, as a condition of the provider's continued enrollment in
31 the IHSS program. Criminal background checks shall be conducted
32 at the provider's expense.

33 (ii) Upon notice from the Department of Justice notifying the
34 public authority or nonprofit consortium that the prospective
35 registry applicant has been convicted of a criminal offense specified
36 in Section 12305.81, the public authority or nonprofit consortium
37 shall deny the request to be placed on the registry for providing
38 supportive services to any recipient of the In-Home Supportive
39 Services program.

(iii) Commencing 90 days after the effective date of the act that adds Section 12305.87, and upon notice from the Department of Justice that an applicant who is subject to the provisions of that section has been convicted of, or incarcerated following conviction for, an offense described in subdivision (b) of that section, the public authority or nonprofit consortium shall deny the applicant's request to become a provider of supportive services to any recipient of in-home supportive services, subject to the individual waiver and exception processes described in that section. An applicant who is denied on the basis of Section 12305.87 shall be informed by the public authority or nonprofit consortium of the individual waiver and exception processes described in that section.

(B) (i) Notwithstanding any other law, the public authority or nonprofit consortium shall provide an individual with a copy of his or her state-level criminal offender record information search response as provided to the entity by the Department of Justice if the individual has been denied placement on the registry for providing supportive services to any recipient of the In-Home Supportive Services program based on this information. The copy of the state-level criminal offender record information search response shall be included with the individual's notice of denial. Along with the notice of denial, the public authority or public consortium shall also provide information in plain language on how an individual may contest the accuracy and completeness of, and refute any erroneous or inaccurate information in, his or her state-level criminal offender record information search response as provided by the Department of Justice as authorized by Section 11126 of the Penal Code. The state-level criminal offender record information search response shall not be modified or altered from its form or content as provided by the Department of Justice.

(ii) The department shall develop a written appeal process for the current and prospective providers who are determined ineligible to receive payment for the provision of services in the In-Home Supportive Services program. Notwithstanding any other law, the public authority or nonprofit consortium shall provide the department with a copy of the state-level criminal offender record information search response as provided to the entity by the Department of Justice for any individual who has requested an appeal of a denial of placement on the registry for providing supportive services to any recipient of the In-Home Supportive

1 Services program based on clause (ii) or (iii) of subparagraph (A).
2 The state-level criminal offender record information search
3 response shall not be modified or altered from its form or content
4 as provided by the Department of Justice and shall be provided to
5 the address specified by the department in its written request.

6 (C) This paragraph shall not be construed to prohibit the
7 Department of Justice from assessing a fee pursuant to Section
8 11105 or 11123 of the Penal Code to cover the cost of furnishing
9 summary criminal history information.

10 (D) As used in this section, “nonprofit consortium” means a
11 nonprofit public benefit corporation that has all powers necessary
12 to carry out the delivery of in-home supportive services under the
13 delegated authority of a ~~government~~ *governmental* entity.

14 (E) A nonprofit consortium or a public authority authorized to
15 secure a criminal background check clearance pursuant to this
16 section shall accept a clearance for an applicant described in clause
17 (i) of subparagraph (A) who has been deemed eligible by another
18 nonprofit consortium, public authority, or county with criminal
19 background check authority pursuant to either Section 12305.86
20 or this section, to receive payment for providing services pursuant
21 to this article. Existence of a clearance shall be determined by
22 verification through the case management, information, and
23 payrolling system, that another county, nonprofit consortium, or
24 public authority with criminal background check authority pursuant
25 to Section 12305.86 or this section has deemed the current or
26 prospective provider to be eligible to receive payment for providing
27 services pursuant to this article.

28 (3) Establishment of a referral system under which in-home
29 supportive services personnel shall be referred to recipients.

30 (4) Providing for training for providers and recipients.

31 (5) (A) Performing any other functions related to the delivery
32 of in-home supportive services.

33 (B) (i) Upon request of a recipient of in-home supportive
34 services pursuant to this chapter, or a recipient of personal care
35 services under the Medi-Cal program pursuant to Section 14132.95,
36 a public authority or nonprofit consortium may provide a criminal
37 background check on a nonregistry applicant or provider from the
38 Department of Justice, in accordance with clause (i) of
39 subparagraph (A) of paragraph (2) of subdivision (e). If the person
40 who is the subject of the criminal background check is not hired

1 or is terminated because of the information contained in the
2 criminal background report, the provisions of subparagraph (B)
3 of paragraph (2) of subdivision (e) shall apply.

4 (ii) A recipient of in-home supportive services pursuant to this
5 chapter or a recipient of personal care services under the Medi-Cal
6 program may elect to employ an individual as their service provider
7 notwithstanding the individual's record of previous criminal
8 convictions, unless those convictions include any of the offenses
9 specified in Section 12305.81.

10 (6) Ensuring that the requirements of the personal care option
11 pursuant to Subchapter 19 (commencing with Section 1396) of
12 Chapter 7 of Title 42 of the United States Code are met.

13 ~~(f)~~

14 (e) (1) Any nonprofit consortium contracting with a county
15 pursuant to this section or any public authority created pursuant
16 to this section shall be deemed not to be the employer of in-home
17 supportive services personnel referred to recipients under this
18 section for purposes of liability due to the negligence or intentional
19 torts of the in-home supportive services personnel.

20 (2) In no case shall a nonprofit consortium contracting with a
21 county pursuant to this section or any public authority created
22 pursuant to this section be held liable for action or omission of any
23 in-home supportive services personnel whom the nonprofit
24 consortium or public authority did not list on its registry or
25 otherwise refer to a recipient.

26 (3) Counties and the state shall be immune from any liability
27 resulting from their implementation of this section in the
28 administration of the In-Home Supportive Services program. Any
29 obligation of the public authority or consortium pursuant to this
30 section, whether statutory, contractual, or otherwise, shall be the
31 obligation solely of the public authority or nonprofit consortium,
32 and shall not be the obligation of the county or state.

33 ~~(g)~~

34 (f) Any nonprofit consortium contracting with a county pursuant
35 to this section shall ensure that it has a governing body that
36 complies with the requirements of subparagraph (B) of paragraph
37 (3) of subdivision (b) or an advisory committee that complies with
38 subparagraphs (B) and (C) of paragraph (3) of subdivision (b).

39 ~~(h)~~

(g) Recipients of services under this section may elect to receive services from in-home supportive services personnel who are not referred to them by the public authority or nonprofit consortium. Those personnel shall be referred to the public authority or nonprofit consortium for the purposes of wages, benefits, and other terms and conditions of employment.

(i)

(h) (1) Nothing in this section shall be construed to affect the state's responsibility with respect to the state payroll system, unemployment insurance, or workers' compensation and other provisions of Section 12302.2 for providers of in-home supportive services.

(2) The Controller shall make any deductions from the wages of in-home supportive services personnel, who are employees of a public authority *the Statewide Authority established pursuant to paragraph (1) Section 6531.5 of subdivision (e), the Government Code*, that are agreed to by that public authority *the Statewide Authority* in collective bargaining with the designated representative of the in-home supportive services personnel pursuant to ~~Chapter 10 Title 23 (commencing with Section 3500) 110000) of Division 4 of Title 1 of the Government Code~~ and transfer the deducted funds as directed in that agreement.

(3) Any county that elects to provide in-home supportive services pursuant to this section shall be responsible for any increased costs to the in-home supportive services case management, information, and payrolling system attributable to that election. The department shall collaborate with any county that elects to provide in-home supportive services pursuant to this section prior to implementing the amount of financial obligation for which the county shall be responsible.

(j)

(i) To the extent permitted by federal law, personal care option funds, obtained pursuant to Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code, along with matching funds using the state and county sharing ratio established in subdivision (c) of Section 12306, or any other funds that are obtained pursuant to Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code, may be used to establish and operate an entity authorized by this section.

1 ~~(k)~~

2 (j) Notwithstanding any other law, the county, in exercising its
3 option to establish a public authority, shall not be subject to
4 competitive bidding requirements. However, contracts entered into
5 by either the county, a public authority, or a nonprofit consortium
6 pursuant to this section shall be subject to competitive bidding as
7 otherwise required by law.

8 ~~(h)~~

9 (k) (1) The department may adopt regulations implementing
10 this section as emergency regulations in accordance with Chapter
11 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
12 Title 2 of the Government Code. For the purposes of the
13 Administrative Procedure Act, the adoption of the regulations shall
14 be deemed an emergency and necessary for the immediate
15 preservation of the public peace, health and safety, or general
16 welfare. Notwithstanding Chapter 3.5 (commencing with Section
17 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
18 these emergency regulations shall not be subject to the review and
19 approval of the Office of Administrative Law.

20 (2) Notwithstanding subdivision (h) of Section 11346.1 and
21 Section 11349.6 of the Government Code, the department shall
22 transmit these regulations directly to the Secretary of State for
23 filing. The regulations shall become effective immediately upon
24 filing by the Secretary of State.

25 (3) Except as otherwise provided for by Section 10554, the
26 Office of Administrative Law shall provide for the printing and
27 publication of these regulations in the California Code of
28 Regulations. Emergency regulations adopted pursuant to this
29 subdivision shall remain in effect for no more than 180 days.

30 ~~(m)~~

31 (l) (1) In the event that a county elects to form a nonprofit
32 consortium or public authority pursuant to subdivision (a) before
33 the State Department of Health Care Services has obtained all
34 necessary federal approvals pursuant to paragraph (3) of
35 subdivision (j) of Section 14132.95, all of the following shall apply:

36 (A) Subdivision-~~(d)~~ (c) shall apply only to those matters that do
37 not require federal approval.

38 (B) The second sentence of subdivision-~~(h)~~ (g) shall not be
39 operative.

1 (C) The nonprofit consortium or public authority shall not
2 provide services other than those specified in paragraphs (1), (2),
3 (3), (4), and (5) of subdivision ~~(e)~~ (d).

4 (2) Paragraph (1) shall become inoperative when the State
5 Department of Health Care Services has obtained all necessary
6 federal approvals pursuant to paragraph (3) of subdivision (j) of
7 Section 14132.95.

8 ~~(n)~~

9 (m) (1) One year after the effective date of the first approval
10 by the department granted to the first public authority, the Bureau
11 of State Audits shall commission a study to review the performance
12 of that public authority.

13 (2) The study shall be submitted to the Legislature and the
14 Governor not later than two years after the effective date of the
15 approval specified in subdivision (a). The study shall give special
16 attention to the health and welfare of the recipients under the public
17 authority, including the degree to which all required services have
18 been delivered, out-of-home placement rates, prompt response to
19 recipient complaints, and any other issue the director deems
20 relevant.

21 (3) The report shall make recommendations to the Legislature
22 and the Governor for any changes to this section that will further
23 ensure the well-being of recipients and the most efficient delivery
24 of required services.

25 ~~(o)~~

26 (n) Commencing July 1, 1997, the department shall provide
27 annual reports to the appropriate fiscal and policy committees of
28 the Legislature on the efficacy of the implementation of this
29 section, and shall include an assessment of the quality of care
30 provided pursuant to this section.

31 ~~(p)~~

32 (o) (1) Notwithstanding any other law, and except as provided
33 in paragraph (2), the department shall, no later than January 1,
34 2009, implement subparagraphs (A) and (B) through an all-county
35 letter from the director:

36 (A) Subparagraphs (A) and (B) of paragraph (2) of subdivision
37 (e).

38 (B) Subparagraph (B) of paragraph (5) of subdivision (e).

(2) The department shall, no later than July 1, 2009, adopt regulations to implement subparagraphs (A) and (B) of paragraph (1).

(q)

(p) The amendments made to paragraphs (2) and (5) of subdivision (e) made by the act that added this subdivision during the 2007–08 Regular Session of the Legislature shall be implemented only to the extent that an appropriation is made in the annual Budget Act or other statute, except for the amendments that added subparagraph (D) of paragraph (2) of subdivision (e), which shall go into effect January 1, 2009.

SEC. 16. Section 12302.25 of the Welfare and Institutions Code, as amended by Section 34 of Chapter 8 of the Statutes of 2011, is repealed.

~~12302.25. (a) On or before January 1, 2003, each county shall act as, or establish, an employer for in-home supportive service providers under Section 12302.2 for the purposes of Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code and other applicable state or federal laws. Each county may utilize a public authority or nonprofit consortium as authorized under Section 12301.6, the contract mode as authorized under Sections 12302 and 12302.1, county administration of the individual provider mode as authorized under Sections 12302 and 12302.2 for purposes of acting as, or providing, an employer under Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code, county civil service personnel as authorized under Section 12302, or mixed modes of service authorized pursuant to this article and may establish regional agreements in establishing an employer for purposes of this subdivision for providers of in-home supportive services. Within 30 days of the effective date of this section, the department shall develop a timetable for implementation of this subdivision to ensure orderly compliance by counties. Recipients of in-home supportive services shall retain the right to choose the individuals that provide their care and to recruit, select, train, reject, or change any provider under the contract mode or to hire, fire, train, and supervise any provider under any other mode of service. Upon request of a recipient, and in addition to a county's selected method of establishing an employer for in-home supportive service providers pursuant to this subdivision, counties with an IHSS~~

1 caseload of more than 500 shall be required to offer an individual
2 provider employer option.

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

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

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

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

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

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

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

39 ~~(1) The public authority ordinance and employee relations~~
40 ~~procedures.~~

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

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

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

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

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

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

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

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

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

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

~~(l) Any county deemed by operation of law, pursuant to subdivision (j) or (k), to be the employer of IHSS individual providers for purposes of Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code shall~~

1 ~~continue to act in that capacity until the county notifies the~~
2 ~~department that it has established another employer as permitted~~
3 ~~by this section, and has provided the department with the~~
4 ~~documentation required under subdivision (h) demonstrating the~~
5 ~~change.~~

6 SEC. 17. Section 12306 of the Welfare and Institutions Code,
7 as amended by Section 8 of Chapter 37 of the Statutes of 2013, is
8 amended to read:

9 12306. (a) The state and counties shall share the annual cost
10 of providing services under this article as specified in this section.

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

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

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

29 (2) The department shall restore the funding reductions required
30 by *former* subdivision (c) of Section 12301, fully or in part, as
31 soon as administratively practicable, if the amount appropriated
32 from the General Fund for the 1992–93 fiscal year under this article
33 is projected to exceed the sum of the General Fund expenditures
34 under Section 14132.95 and the actual General Fund expenditures
35 under this article for the 1992–93 fiscal year. The entire amount
36 of the excess shall be applied to the restoration. Services shall not
37 be restored under this paragraph until the Department of Finance
38 has determined that the restoration of services would result in no
39 additional costs to the state or to the counties relative to the
40 combined state appropriation and county matching funds for

1 in-home supportive services under this article in the 1992–93 fiscal
2 year.

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

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

11 SEC. 18. Section 12306 of the Welfare and Institutions Code,
12 as amended by Section 9 of Chapter 37 of the Statutes of 2013, is
13 repealed.

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

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

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

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

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

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

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

10 SEC. 19. Section 12306.1 of the Welfare and Institutions Code,
11 as amended by Section 10 of Chapter 37 of the Statutes of 2013,
12 is amended to read:

13 12306.1. (a) When any increase in provider wages or benefits
14 is negotiated or agreed to by a public authority or nonprofit
15 consortium under Section 12301.6, ~~then~~ the county shall use
16 county-only funds to fund both the county share and the state share,
17 including employment taxes, of any increase in the cost of the
18 program, unless otherwise provided for in the annual Budget Act
19 or appropriated by statute. No increase in wages or benefits
20 negotiated or agreed to pursuant to this section shall take effect
21 unless and until, prior to its implementation, the department has
22 obtained the approval of the State Department of Health Care
23 Services for the increase pursuant to a determination that it is
24 consistent with federal law and to ensure federal financial
25 participation for the services under Title XIX of the federal Social
26 Security Act, and unless and until all of the following conditions
27 have been met:

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

34 (2) Each county has met department guidelines and regulatory
35 requirements as a condition of receiving state participation in the
36 rate.

37 (b) Any rate approved pursuant to subdivision (a) shall take
38 effect commencing on the first day of the month subsequent to the
39 month in which final approval is received from the department.

1 The department may grant approval on a conditional basis, subject
2 to the availability of funding.

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

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

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

27 (3) The state shall participate as provided in subdivision (c) in
28 a total of wages and individual health benefits up to ten dollars
29 and ten cents (\$10.10) per hour, if wages have reached at least
30 seven dollars and fifty cents (\$7.50) per hour. Counties shall
31 determine, pursuant to the collective bargaining process provided
32 for in subdivision (c) of Section 12301.6, what portion of the ten
33 dollars and ten cents (\$10.10) per hour shall be used to fund wage
34 increases above seven dollars and fifty cents (\$7.50) per hour or
35 individual health benefit increases, or both. This paragraph shall
36 be operative commencing with the next state fiscal year for which
37 the May Revision forecast of General Fund revenue, excluding
38 transfers, exceeds by at least 5 percent, the most current estimate
39 of revenue, excluding transfers, for the year in which paragraph
40 (2) became operative.

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

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

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

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

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

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

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

SEC. 20. Section 12306.1 of the Welfare and Institutions Code, as amended by Section 11 of Chapter 37 of the Statutes of 2013, is repealed.

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

~~(1) Each county has provided the department with documentation of the approval of the county board of supervisors of the proposed public authority or nonprofit consortium rate, including wages and related expenditures. The documentation shall~~

1 be received by the department before the department and the State
2 Department of Health Care Services may approve the increase.

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

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

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

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

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

35 (3) ~~The state shall participate as provided in subdivision (c) in~~
36 ~~a total of wages and individual health benefits up to ten dollars~~
37 ~~and ten cents (\$10.10) per hour, if wages have reached at least~~
38 ~~seven dollars and fifty cents (\$7.50) per hour. Counties shall~~
39 ~~determine, pursuant to the collective bargaining process provided~~
40 ~~for in subdivision (c) of Section 12301.6, what portion of the ten~~

1 dollars and ten cents (\$10.10) per hour shall be used to fund wage
2 increases above seven dollars and fifty cents (\$7.50) per hour or
3 individual health benefit increases, or both. This paragraph shall
4 be operative commencing with the next state fiscal year for which
5 the May Revision forecast of General Fund revenue, excluding
6 transfers, exceeds by at least 5 percent, the most current estimate
7 of revenue, excluding transfers, for the year in which paragraph
8 (2) became operative.

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

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

36 (e) (1) On or before May 14 immediately prior to the fiscal
37 year for which state participation is provided under paragraphs (2)
38 to (5), inclusive, of subdivision (d), the Director of Finance shall
39 certify to the Governor, the appropriate committees of the

1 ~~Legislature, and the department that the condition for each~~
2 ~~subdivision to become operative has been met.~~

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

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

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

22 SEC. 21. Section 14186.35 of the Welfare and Institutions
23 Code is amended to read:

24 14186.35. (a) Not sooner than March 1, 2013, in-home
25 supportive services (IHSS) shall be a Medi-Cal benefit available
26 through managed care health plans in a county where this article
27 is effective. Managed care health plans shall cover IHSS in
28 accordance with the standards and requirements set forth in Article
29 7 (commencing with Section 12300) of Chapter 3. Specifically,
30 managed care health plans shall do all of the following:

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

33 (2) Ensure recipients retain the right to be the employer, to
34 select, engage, direct, supervise, schedule, and terminate IHSS
35 providers in accordance with Section ~~12301.6.~~ 12300.7.

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

38 (4) Create a care coordination team, as needed, unless the
39 consumer objects. If the consumer is an IHSS recipient, his or her
40 participation and the participation of his or her provider shall be

1 at the recipient's option. The care coordination team shall include
2 the consumer, his or her authorized representative, managed care
3 health plan, county social services agency, Community Based
4 Adult Services (CBAS) case manager for CBAS clients,
5 Multipurpose Senior Services Program (MSSP) case manager for
6 MSSP clients, and may include others as identified by the
7 consumer.

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

10 (6) Ensure compliance with all requirements set forth in Section
11 14132.956 and any resulting state plan amendments.

12 (7) Adhere to quality assurance provisions and individual data
13 and other standards and requirements as specified by the State
14 Department of Social Services including state and federal quality
15 assurance requirements.

16 (8) Share confidential beneficiary data with the contractors
17 specified in this section to improve care coordination, promote
18 shared understanding of the consumer's needs, and ensure
19 appropriate access to IHSS and other long-term services and
20 supports.

21 (9) (A) Enter into a memorandum of understanding with a
22 county agency and the county's public authority or nonprofit
23 consortium pursuant to Section 12301.6 to continue to perform
24 their respective functions and responsibilities pursuant to the
25 existing ordinance or contract until the ~~Director of Health Care~~
26 ~~Services provides notification pursuant to implementation date set~~
27 ~~forth in subdivision (a) of Section 12300.7 for that county. 12300.7.~~

28 (B) Following the ~~notification pursuant to implementation date~~
29 ~~set forth in~~ subdivision (a) of Section 12300.7, enter into a
30 memorandum of understanding with the county agencies to perform
31 the following activities:

32 (i) Assess, approve, and authorize each recipient's initial and
33 continuing need for services pursuant to Article 7 (commencing
34 with Section 12300) of Chapter 3. County agency assessments
35 shall be shared with the care coordination teams established under
36 paragraph (4), when applicable, and the county agency thereafter
37 may receive and consider additional input from the care
38 coordination team.

39 (ii) Plans may contract with counties for additional assessments
40 for purposes of paragraph (6) of subdivision (b) of Section 14186.

1 (iii) Enroll providers, conduct provider orientation, and retain
2 enrollment documentation pursuant to Sections 12301.24 and
3 12305.81.

4 (iv) Conduct criminal background checks on all potential
5 providers and exclude providers consistent with the provisions set
6 forth in Sections 12305.81, 12305.86, and 12305.87.

7 (v) Provide assistance to IHSS recipients in finding eligible
8 providers through the establishment of a provider registry as well
9 as provide training for providers and recipients as set forth in
10 Section 12301.6.

11 (vi) Refer all providers to the California In-Home Supportive
12 Services Authority ~~or nonprofit consortium~~ for the purposes of
13 wages, benefits, and other terms and conditions of employment in
14 accordance with ~~subdivision (a) of Section 12300.7 and Title 23~~
15 (commencing with Section 110000) of the Government Code.

16 (vii) Pursue overpayment recovery pursuant to Section 12305.83.

17 (viii) Perform quality assurance activities including routine case
18 reviews, home visits, and detecting and reporting suspected fraud
19 pursuant to Section 12305.71.

20 (ix) Share confidential data necessary to implement the
21 provisions of this section.

22 (x) Appoint an advisory committee of not more than 11 people,
23 and no less than 50 percent of the membership of the advisory
24 committee shall be individuals who are current or past users of
25 personal assistance paid for through public or private funds or
26 recipients of IHSS services.

27 (xi) Continue to perform other functions necessary for the
28 administration of the IHSS program pursuant to Article 7
29 (commencing with Section 12300) of Chapter 3 and regulations
30 promulgated by the State Department of Social Services pursuant
31 to that article.

32 (C) A county may contract with an entity or may establish a
33 public authority pursuant to Section 12301.6 for the performance
34 of any or all of the activities set forth in a contract with a managed
35 care health plan pursuant to this section.

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

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

1 (B) Perform obligations on behalf of the IHSS recipient as the
2 employer of his or her provider, including unemployment
3 compensation, disability benefits, applicable federal and state
4 taxes, and federal old age survivor's and disability insurance
5 through the state's payroll system for IHSS in accordance with
6 Sections 12302.2 and 12317.

7 (C) Provide technical assistance and support for all
8 payroll-related activities involving the state's payroll system for
9 IHSS, including, but not limited to, the monthly restaurant
10 allowance as set forth in Section 12303.7, the monthly cash
11 payment in advance as set forth in Section 12304, and the direct
12 deposit program as set forth in Section 12304.4.

13 (D) Share recipient and provider data with managed care health
14 plans for members who are receiving IHSS to support care
15 coordination.

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

20 (11) In concert with the department, timely reimburse the state
21 for payroll and other obligations of the beneficiary as the employer,
22 including unemployment compensation, disability benefits,
23 applicable federal and state taxes, and federal old age survivors
24 and disability insurance benefits through the state's payroll system.

25 (12) In a county where services are provided in the homemaker
26 mode, enter into a contract with the county to implement the
27 provision of services pursuant to the homemaker mode as set forth
28 in Section 12302.

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

32 (14) In a county where services are provided pursuant to a
33 contract, and as needed, enter into a contract with a city, county,
34 or city and county agency, a local health district, a voluntary
35 nonprofit agency, or a proprietary agency as set forth in Section
36 12302 and in accordance with Section 12302.6.

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

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

1 (1) The responsibilities as the employer of the IHSS provider
2 for the purposes of hiring, firing, and supervising their provider
3 of choice as set forth in Section ~~12301.6~~ 12300.7.

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

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

10 (4) The ability to request a reassessment pursuant to Section
11 12301.1.

12 (c) The department and the State Department of Social Services,
13 along with the counties, managed care health plans, consumers,
14 advocates, and other stakeholders, shall develop a referral process
15 and informational materials for the appeals process that is
16 applicable to home- and community-based services plan benefits
17 authorized by a managed care health plan. The process established
18 by this paragraph shall ensure ease of access for consumers.

19 (d) For services provided through managed care health plans,
20 the IHSS provider shall continue to adhere to the requirements set
21 forth in subdivision (b) of Section 12301.24, subdivision (a) of
22 Section 12301.25, subdivision (a) of Section 12305.81, and
23 subdivision (a) of Section 12306.5.

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

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

33 (2) Perform the obligations on behalf of the recipient as
34 employer relating to workers' compensation as set forth in Section
35 12302.2 and Section 12302.21 for those entities that have entered
36 into a contract with a managed care health plan pursuant to Section
37 12302.6.

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

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

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

SEC. 22. Section 34 of Chapter 37 of the Statutes of 2013, as amended by Section 212 of Chapter 71 of the Statutes of 2014, is amended to read:

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

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

(2) Savings shall be determined under this subdivision by comparing the estimated costs of the Coordinated Care Initiative, as approved by the federal government, and the estimated costs of the program if the Coordinated Care Initiative were not operative. The determination shall also include any net savings to the General Fund achieved through the tax imposed pursuant to Article 5 (commencing with Section 6174) of Chapter 2 of Part 1 of Division 2 of the Revenue and Taxation Code.

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

(c) (1) Notwithstanding any other law, if, at least 30 days prior to enrollment of beneficiaries into the Coordinated Care Initiative, the Director of Finance estimates pursuant to subdivision (a) that the Coordinated Care Initiative will not generate net General Fund savings, then the activities to implement the Coordinated Care

Initiative shall be suspended immediately and the Coordinated Care Initiative shall become inoperative July 1, 2014.

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

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

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

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

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

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

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

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

~~(G)~~

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

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

~~(I)~~

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

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

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

~~(B) For any agreement that has been negotiated and approved by the Statewide Authority, the Statewide Authority shall continue~~

1 to retain its authority pursuant to Section 6531.5 and Title 23
2 (commencing with Section 110000) of the Government Code and
3 Sections 12300.5, 12300.6, 12300.7, and 12302.6 of the Welfare
4 and Institutions Code, and shall remain the employer of record for
5 all individual providers covered by the agreement until the
6 agreement expires or is subject to renegotiation, whereby the
7 authority of the Statewide Authority shall terminate and the county
8 shall be the employer of record in accordance with Section
9 12302.25 of the Welfare and Institutions Code and may establish
10 an employer of record pursuant to Section 12301.6 of the Welfare
11 and Institutions Code.

12 (C) For an agreement that has been assumed by the Statewide
13 Authority that was negotiated and approved by a predecessor
14 agency, the Statewide Authority shall cease being the employer
15 of record and the county shall be reestablished as the employer of
16 record for purposes of bargaining and in accordance with Section
17 12302.25 of the Welfare and Institutions Code, and may establish
18 an employer of record pursuant to Section 12301.6 of the Welfare
19 and Institutions Code.

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