

File No. 230422

Committee Item No. \_\_\_\_\_

Board Item No. 35

# COMMITTEE/BOARD OF SUPERVISORS

## AGENDA PACKET CONTENTS LIST

Committee: \_\_\_\_\_

Date: \_\_\_\_\_

Board of Supervisors Meeting

Date: April 18, 2023

### Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Form 126 – Ethics Commission
- Award Letter
- Application
- Public Correspondence

### OTHER

- Assembly Bill 1672 - 2/17/23
- CSAC and LCC Position
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

Prepared by: Lisa Lew

Date: April 14, 2023

Prepared by: \_\_\_\_\_

Date: \_\_\_\_\_

1 [Supporting California State Assembly Bill No. 1672 (Haney) - In-Home Supportive Services  
2 Employer-Employee Relations Act]

3 **Resolution supporting California State Assembly Bill No. 1672, In-Home Supportive**  
4 **Services Employer-Employee Relations Act, authored by Assembly Member Matt**  
5 **Haney, to expand the definition of "public employer," to include an employer who is**  
6 **subject to the In-Home Supportive Services Employer-Employee Relations Act.**

7  
8 WHEREAS, The In-Home Supportive Services (IHSS) program is an essential  
9 resource that allows qualified aged, blind, or disabled persons to remain in their own homes  
10 with supportive services; and

11 WHEREAS, Existing law allows for the creation of a public authority to provide for the  
12 delivery of in-home supportive services and deems the public authority to be the employer of  
13 in-home supportive services personnel under the Meyers-Milias-Brown Act; and

14 WHEREAS, The state and specified local public employers are prohibited from  
15 deterring or discouraging public employees from becoming or remaining members of an  
16 employee organization; and

17 WHEREAS, The state and specified local public employers are prohibited from  
18 deterring or discouraging public employees from becoming or remaining members of an  
19 employee organization; and

20 WHEREAS, The In-Home Supportive Services Employer-Employee Relations Act will  
21 establish a method for resolving disputes regarding wages, benefits, and other terms and  
22 conditions of employment between the state and recognized employee organizations  
23 representing independent provider; and

24 WHEREAS, The In-Home Supportive Services Employer-Employee Relations Act will  
25 provide individual providers with the right to form, join, and participate in activities of employee

1 organizations for the purposes of representation on all matters within the scope of employee  
2 organizations; and

3 WHEREAS, The In-Home Supportive Services Employer-Employee Relations Act will  
4 establish a system for collective bargaining and will require all recognized employee  
5 organizations to negotiate jointly on behalf of all bargaining units they represent to reach a  
6 single memorandum of understanding with the employer; and

7 WHEREAS, The In-Home Supportive Services Employer-Employee Relations Act will  
8 provide individual providers with job security by ensuring that those employed by a  
9 predecessor agency before the effective date of the act shall retain employee status and not  
10 be required by the state to requalify to receive payment for providing in-home supportive  
11 services; now, therefore, be it

12 RESOLVED, That the San Francisco Board of Supervisors hereby supports California  
13 Assembly Bill No. 1672 and urges the California State Legislature to pass this bill, and, be it

14 FURTHER RESOLVED, That the Board of Supervisors hereby directs the Clerk of the  
15 Board to transmit a copy of this Resolution to the California Senate President pro-Tempore  
16 Toni Atkins, California Assembly Speaker Anthony Rendon, Assemblymember Matt Haney,  
17 Assemblymember Phil Ting, State Senator Scott Weiner, and Governor Gavin Newsom.

18  
19  
20  
21  
22  
23  
24  
25

**ASSEMBLY BILL**

**No. 1672**

---

---

**Introduced by Assembly Member Haney**

**(Principal coauthors: Assembly Members Wendy Carrillo and  
Santiago)**

**(Coauthors: Assembly Members Bryan, Friedman, Jackson, and  
Zbur)**

February 17, 2023

---

---

An act to amend Sections 3552, 3555.5, and 7926.300 of, and to add Title 26 (commencing with Section 110000) to, the Government Code, and to amend Sections 12301.6 and 12301.24 of, and to add Section 12300.8 to, the Welfare and Institutions Code, relating to in-home supportive services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1672, as introduced, Haney. In-Home Supportive Services Employer-Employee Relations Act.

(1) Existing law establishes the In-Home Supportive Services (IHSS) program, which is administered by the State Department of Social Services, counties, and other entities, under which qualified aged, blind, or disabled persons are provided with supportive services in order to permit them to remain in their own homes.

Existing law authorizes a county board of supervisors to elect to contract with a nonprofit consortium to provide for the delivery of in-home supportive services or to establish, by ordinance, a public authority to provide for the delivery of those services, in accordance with certain procedures. Existing law deems a public authority created under these provisions to be the employer of in-home supportive services personnel under the Meyers-Milias-Brown Act, which governs labor

relations between local public employers and employees. Existing law also deems a nonprofit consortium contracting with a county to be the employer of in-home supportive services personnel for purposes of collective bargaining over wages, hours, and other terms and conditions of employment. Existing law grants recipients of in-home supportive services the right to hire, fire, and supervise the work of any in-home supportive services personnel providing services for them.

Existing law prohibits the state and specified local public employers from deterring or discouraging public employees from becoming or remaining members of an employee organization. Existing law also requires specified public employers to provide exclusive employee representatives access to new employee orientations. Existing law generally grants the Public Employment Relations Board jurisdiction over violations of these provisions. Existing law defines “public employers” who are subject to these provisions as including, among others, public agencies, cities, counties, and districts.

This bill would expand the definition of “public employer,” for purposes of those provisions, to include an employer who is subject to the In-Home Supportive Services Employer-Employee Relations Act, which the bill would create. The bill would establish a method for resolving disputes regarding wages, benefits, and other terms and conditions of employment between the state and recognized employee organizations representing independent providers. The bill would provide for the right of employees, also known as individual providers under the act, to form, join, and participate in activities of employee organizations for the purposes of representation on all matters within the scope of employee organizations. The bill would define “employee” or “individual provider” for these purposes to mean a person authorized to provide in-home supportive services pursuant to the individual provider mode or waiver personal care services, as prescribed.

For purposes of collective bargaining, the bill would deem the state to be the employer of record of individual providers in each county. The bill would grant the in-home supportive services recipient with the right to hire, fire, and supervise the work of the individual providers providing services to them. Among other things, the bill would specify that individual providers employed by a predecessor agency before the effective date of the act shall retain employee status and not be required by the state to requalify to receive payment for providing in-home supportive services.

Among other things, for purposes of collective bargaining, the bill would provide that existing bargaining units consisting of individual providers in a single county that are represented by the same recognized employee organization shall be deemed merged into the largest possible multicounty bargaining units represented by that employee organization, upon the effective date of this act. In counties where no recognized employee organization exists as of the effective date of the act, the bill would specify that a bargaining unit consisting of all employees in that county shall be deemed an appropriate unit for collective bargaining. Under the bill, if individual providers in a county bargaining unit are represented by a recognized employee organization on the date of the act, the state would be deemed the successor employer of the predecessor agency for purposes of negotiating a collective bargaining agreement, subject to the obligation to meet and confer in good faith and meet other related legal requirements.

The bill would require all recognized employee organizations, as of the effective date of the act, to negotiate jointly on behalf of all bargaining units they represent to reach a single memorandum of understanding with the employer. The bill would authorize the memorandum of understanding to contain addenda reflecting regional or county-level terms and conditions. The bill would establish procedures for voting and ratification of a memorandum of understanding, and for the employer to assume a predecessor agency's rights and obligations under a memorandum of understanding or agreement between a predecessor agency and a recognized employee organization that is in effect on the date of the bill's enactment.

The bill would prescribe the duties of the state under the act, including requiring the Governor to meet and confer in good faith, and to follow specified procedures regarding collective bargaining. If an agreement is reached by a representative of the Governor and the recognized employee organizations, the bill would require those parties to jointly prepare a written memorandum of understanding and present it to the Legislature for determination by majority vote. The bill would require the Governor, for any side letter, appendix, or other addendum to a memorandum of understanding that requires the expenditure of \$250,000 or more related to salary and benefits not included in the original memorandum or the Budget Act, to provide that to the Joint Legislative Budget Committee, as specified. The bill would also establish mediation and arbitration procedures that would apply when the parties fail to reach an agreement.

The bill would make certain actions by an employer and other entities involved in administering the IHSS program unlawful, including imposing or threatening to impose reprisals on employees or otherwise interfering with the exercise of their rights. The bill would authorize the Public Employment Relations Board to adopt reasonable rules and regulations pursuant to the act, including the adoption of emergency regulations, as prescribed.

(2) Existing law requires the Controller to provide for the administration of payroll deductions and salary reductions, and authorizes the Controller to establish procedures for that purpose.

The bill would require the Controller to honor a written authorization for payroll deductions executed by an employee before the effective date of the act, and to make deductions for payments of dues to a recognized employee organization pursuant to the act consistent with the above-described payroll deduction procedures.

(3) Existing law, the California Public Records Act, requires public records to be open to inspection at all times during the office hours of the state or local agency that retains those records, and provides that every person has a right to inspect any public record, except as provided. Existing law provides that certain information regarding persons paid by the state to provide in-home supportive services, or other related public services, are not subject to disclosure under the act. Existing law further provides that copies of names, addresses, home telephone numbers, and other identifying information are required to be made available, upon request, to an exclusive bargaining agent and to any employee organization seeking representation rights under specified collective bargaining provisions.

With respect to the above-described personal identifying information, this bill would instead require this information to be made available to the exclusive bargaining agent and any employee organization seeking representation under the In-Home Supportive Services Employer-Employee Relations Act. The bill would require the state, or a county, public authority, or nonprofit consortium organized pursuant to the IHSS program, to promptly make the information available to the requesting entity.

The bill would revise the IHSS program provisions to require the state to assume responsibilities as set forth in the act. The bill would also require a county or city and county to continue to have certain IHSS program-related functions set forth in county ordinance or contract performed in accordance with specified provisions.

(4) Existing law requires prospective providers of in-home supportive services to complete an in-person provider orientation at the time of enrollment that is developed by the department, in consultation with counties, that includes requirements to be an eligible IHSS provider and other related matters.

This bill additionally would require that in-person provider orientation include any other information required to be communicated to prospective providers by a memorandum of understanding, appendix, or side letter between recognized employee organizations and the state. The bill would make other related changes to these provisions.

By imposing new duties on local government officials, the bill would impose a state-mandated local program.

(5)The bill would include findings that changes proposed by this bill address a matter of statewide concern and, therefore, apply to all counties.

(6)The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

(7)Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(8)The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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



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

1 SECTION 1. Section 3552 of the Government Code is amended  
2 to read:

3 3552. For the purpose of this chapter:

4 (a) “Employee organization” means an employee organization  
5 within the meaning of the provisions listed in subdivision (c).

6 (b) “Public employee” means an employee granted rights by  
7 the provisions listed in subdivision (c) or an employee of a public  
8 transit agency, the labor relations of which are regulated by  
9 provisions in the Public Utilities Code.

10 (c) “Public employer” means any employer subject to Chapter  
11 10 (commencing with Section 3500), Chapter 10.3 (commencing  
12 with Section 3512), Chapter 10.4 (commencing with Section  
13 3524.50), Chapter 10.7 (commencing with Section 3540), or  
14 Chapter 12 (commencing with Section 3560) of Division 4 of Title  
15 1, Chapter 7 (commencing with Section 71600) or Chapter 7.5  
16 (commencing with Section 71800) of Title 8 ~~of~~ *of, or Title 26*  
17 *(commencing with Section 110000) of*, this code, or Chapter 7  
18 (commencing with Section 99560) of Part 11 of Division 10 of  
19 the Public Utilities Code, or Section 12302.25 of the Welfare and  
20 Institutions Code. This chapter also applies to public transit districts  
21 with respect to their public employees who are in bargaining units  
22 not subject to the provisions listed in this subdivision.

23 SEC. 2. Section 3555.5 of the Government Code is amended  
24 to read:

25 3555.5. (a) This chapter applies to public employers subject  
26 to Chapter 10 (commencing with Section 3500), Chapter 10.3  
27 (commencing with Section 3512), Chapter 10.4 (commencing with  
28 Section 3524.50), Chapter 10.7 (commencing with Section 3540),  
29 or Chapter 12 (commencing with Section 3560) of, or Chapter 7  
30 (commencing with Section 71600) or Chapter 7.5 (commencing  
31 with Section 71800) of Title 8 of, *or Title 26 (commencing with*  
32 *Section 110000) of*, this code, or Chapter 7 (commencing with  
33 Section 99560) of Part 11 of Division 10 of the Public Utilities  
34 Code. This chapter, except for subdivision (c), also applies to  
35 public transit districts with respect to their public employees who  
36 are in bargaining units not subject to the provisions listed in this  
37 subdivision.

38 (b) For purposes of this chapter:

1 (1) “Exclusive representative” means the exclusive  
2 representative or recognized employee organization for the  
3 bargaining unit.

4 (2) “Interest arbitration” means a process whereby an employer  
5 and an exclusive representative submit a dispute concerning the  
6 terms of access to new employee orientations for resolution to a  
7 third-party arbitrator who is then authorized to approve either  
8 party’s proposal in its entirety, to approve a proposal using both  
9 the employer’s and exclusive representative’s final proposals, or  
10 to modify the proposals by the parties.

11 (3) “New employee orientation” means the onboarding process  
12 of a newly hired public employee, whether in person, online, or  
13 through other means or mediums, in which employees are advised  
14 of their employment status, rights, benefits, duties and  
15 responsibilities, or any other employment-related matters.

16 (4) “Newly hired public employee” means any employee,  
17 whether permanent, temporary, full time, part time, or seasonal,  
18 hired by a public employer, to which this chapter applies and who  
19 is still employed as of the date of the new employee orientation.

20 (c) (1) Except as provided in paragraph (2), the Public  
21 Employment Relations Board shall have jurisdiction over violations  
22 of this chapter. The powers and duties of the board described in  
23 Section 3541.3 shall apply, as appropriate, to this chapter.

24 (2) The employee relations commissions established by the  
25 County of Los Angeles and the City of Los Angeles shall have  
26 jurisdiction over violations of this chapter in the County of Los  
27 Angeles and the City of Los Angeles, respectively.

28 SEC. 3. Section 7926.300 of the Government Code is amended  
29 to read:

30 7926.300. (a) Notwithstanding any other provision of this  
31 division, information regarding persons paid by the state to provide  
32 in-home supportive services pursuant to Article 7 (commencing  
33 with Section 12300) of Chapter 3 of Part 3 of Division 9 of the  
34 Welfare and Institutions Code or personal care services pursuant  
35 to Section 14132.95, 14132.952, 14132.956, or 14132.97 of the  
36 Welfare and Institutions Code, and information about persons who  
37 have completed the form described in subdivision (a) of Section  
38 12305.81 of the Welfare and Institutions Code for the provider  
39 enrollment process, is not subject to public disclosure pursuant to  
40 this division, except as provided in subdivision (b).

1 (b) Copies of names, addresses, home telephone numbers,  
2 personal cellular telephone numbers, written or spoken languages,  
3 if known, and personal email addresses of persons described in  
4 subdivision (a) shall be made available, upon request, to an  
5 exclusive bargaining agent and to any ~~labor~~ *employee* organization  
6 seeking representation rights pursuant to ~~subdivision (c) of Section~~  
7 ~~12301.6, or Section 12302.5, of the Welfare and Institutions Code~~  
8 ~~or Chapter 10 (commencing with Section 3500) of Division 4: the~~  
9 *In-Home Supportive Services Employer-Employee Relations Act*  
10 *(Title 26 (commencing with Section 110000))*. The state, or a  
11 county, public authority, or nonprofit consortium organized  
12 pursuant to Sections 12301.6 or 12302.25 of the Welfare and  
13 Institutions Code, shall promptly make the information available  
14 to the requesting entity. This information shall not be used by the  
15 receiving entity for any purpose other than the employee  
16 organizing, representation, and assistance activities of the ~~labor~~  
17 *employee* organization.

18 (c) This section applies solely to individuals who provide  
19 services under the In-Home Supportive Services Program (Article  
20 7 (commencing with Section 12300) of Chapter 3 of Part 3 of  
21 Division 9 of the Welfare and Institutions Code), the Personal Care  
22 Services Program pursuant to Section 14132.95 of the Welfare  
23 and Institutions Code, the In-Home Supportive Services Plus  
24 Option Program pursuant to Section 14132.952 of the Welfare and  
25 Institutions Code, the Community First Choice Option Program  
26 pursuant to Section 14132.956 of the Welfare and Institutions  
27 Code, or the Waiver Personal Care Services Program pursuant to  
28 Section 14132.97 of the Welfare and Institutions Code.

29 (d) This section does not alter the rights of parties under the  
30 Meyers-Milias-Brown Act (Chapter 10 (commencing with Section  
31 3500) of Division 4) or any other labor relations law.

32 (e) *“Employee organization” has the same meaning as set forth*  
33 *in subdivision (c) of Section 110003.*

34 SEC. 4. Title 26 (commencing with Section 110000) is added  
35 to the Government Code, to read:

1 TITLE 26. IN-HOME SUPPORT SERVICES  
2 EMPLOYER-EMPLOYEE RELATIONS ACT

3  
4 CHAPTER 1. GENERAL PROVISIONS  
5

6 110000. This title shall be known and may be cited as the  
7 In-Home Supportive Services Employer-Employee Relations Act.

8 110001. It is the purpose of this title to promote full  
9 communication between the state and recognized employee  
10 organizations representing independent providers by providing a  
11 reasonable method of resolving disputes regarding wages, benefits,  
12 and other terms and conditions of employment, as described in  
13 Section 110022, between the state and recognized employee  
14 organizations. It is also the purpose of this title to promote the  
15 improvement of personnel management and employer-employee  
16 relations within the public authority by providing a uniform basis  
17 for recognizing the right of independent providers to join  
18 organizations of their own choice and be represented by those  
19 organizations for purposes of collective bargaining with the state.  
20 This title is intended to strengthen methods of administering  
21 employer-employee relations through the establishment of uniform  
22 and orderly methods of communication between the recognized  
23 employee organizations and the state. Except as expressly provided  
24 herein, this title is not intended to require changes in existing  
25 bargaining units or memoranda of agreement or understanding.

26 110002. Except as otherwise provided by the Legislature,  
27 employees shall have the right to form, join, and participate in the  
28 activities of employee organizations of their own choosing for the  
29 purpose of representation on all matters within the scope of  
30 representations. Employees also shall have the right to refuse to  
31 join or participate in the activities of employee organizations.

32 110003. As used in this title:

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

35 (b) “Employee” or “individual provider” means any person  
36 authorized to provide in-home supportive services pursuant to  
37 Article 7 (commencing with Section 12300) of Chapter 3 of Part  
38 3 of Division 9 of the Welfare and Institutions Code, and Sections  
39 14132.95, 14132.952, and 14132.956 of the Welfare and  
40 Institutions Code, pursuant to the individual provider mode, as

1 described in Section 12302.2 of the Welfare and Institutions Code,  
2 or waiver personal care services pursuant to Section 14132.97 of  
3 the Welfare and Institutions Code. As used in this title, “employee”  
4 or “individual provider” does not include any person providing  
5 in-home supportive services pursuant to the county-employed  
6 homemaker mode or the contractor mode, as authorized in Section  
7 12302 of the Welfare and Institutions Code. Individual providers  
8 shall not be deemed to be employees of the state for any other  
9 purposes, except as expressly set forth in this title.

10 (c) “Employee organization” means an organization that includes  
11 employees, as defined in subdivision (b), and that has as one of  
12 its primary purposes representing those employees in their relations  
13 with the public employer.

14 (d) “Employer” means, for the purposes of collective bargaining,  
15 the state, the State Department of Health Care Services, or any  
16 other agency, department, contractor, subcontractor, or any political  
17 subdivision of the state administering the In-Home Supportive  
18 Services Program. The in-home supportive services recipient shall  
19 be the employer of an individual provider with the unconditional  
20 and exclusive right to hire, fire, and supervise the provider.

21 (e) “In-home supportive services” or “In-Home Supportive  
22 Services Program” means services provided pursuant to Article 7  
23 (commencing with Section 12300) of Chapter 3 of Part 3 of  
24 Division 9 of the Welfare and Institutions Code, and Sections  
25 14132.95, 14132.952, and 14132.956 of the Welfare and  
26 Institutions Code, and waiver personal care services pursuant to  
27 Section 14132.97 of the Welfare and Institutions Code.

28 (f) “In-home supportive services recipient” means the individual  
29 who receives the in-home supportive services provided by the  
30 individual provider.

31 (g) “Mediation” means effort by an impartial third party to assist  
32 in reconciling a dispute regarding wages, benefits, and other terms  
33 and conditions of employment, as defined in Section 110022,  
34 between representatives of the employer and the recognized  
35 employee organization or recognized employee organizations  
36 through interpretation, suggestion, and advice.

37 (h) “Predecessor agency” means a county, a local public  
38 authority, or a nonprofit consortium established pursuant to Section  
39 12301.6 or 12302.25 of the Welfare and Institutions Code before  
40 the effective date of this title.

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

3 (1) Before the effective date of this title, by a predecessor  
4 agency, as the exclusive representative of its employees.

5 (2) On or after the effective date of this title, by the employer.  
6

7 CHAPTER 2. TRANSITIONAL PROVISIONS  
8

9 110004. It is the intent of the Legislature to stabilize the labor  
10 and employment relations of individual providers in order to  
11 provide continuity of care and services to the maximum extent  
12 possible, and consistent with the responsibilities of the employer  
13 under the act adding this title.

14 110005. For the purposes of collective bargaining, and as  
15 expressly set forth in subdivision (d) of Section 110003, the state  
16 is deemed to be the employer of record of individual providers in  
17 each county as of the effective date of this title. In-home supportive  
18 services recipients shall retain the right to hire, fire, and supervise  
19 the work of the individual providers providing services to them.

20 110006. Individual providers employed by any predecessor  
21 agency as of the effective date of this title shall retain employee  
22 status and shall not be required by the state to requalify to receive  
23 payment for providing services pursuant to Article 7 (commencing  
24 with Section 12300) of Chapter 3 of Part 3 of Division 9 of the  
25 Welfare and Institutions Code. In the same manner as set forth in  
26 subdivision (e) of Section 12305.86 of the Welfare and Institutions  
27 Code, the employer shall accept a clearance that was obtained or  
28 accepted by any predecessor agency pursuant to Article 7  
29 (commencing with Section 12300) of Chapter 3 of Part 3 of  
30 Division 9 of the Welfare and Institutions Code. Existence of a  
31 clearance shall be determined by verification through the case  
32 management, information, and payroll system of the predecessor  
33 agency that the predecessor agency has deemed the provider to be  
34 eligible to receive payment for providing services pursuant to  
35 Article 7 (commencing with Section 12300) of Chapter 3 of Part  
36 3 of Division 9 of the Welfare and Institutions Code.

37 110007. (a) On the effective date of this title, consistent with  
38 the recognition of employee organizations by predecessor agencies,  
39 existing bargaining units consisting of individual providers in a  
40 single county that are represented by the same recognized employee

1 organization shall be deemed merged into the largest possible  
2 multicounty bargaining units represented by that employee  
3 organization.

4 (b) In those counties where no recognized employee organization  
5 exists as of the effective date of this title, a bargaining unit  
6 consisting of all employees in that county shall be deemed an  
7 appropriate unit for collective bargaining. If employees thereafter  
8 select an employee organization as their exclusive representative,  
9 the county bargaining unit shall be deemed merged into any  
10 existing multicounty bargaining unit represented by the same  
11 recognized employee organization.

12 110008. If, on the effective date of this title, individual  
13 providers in a county bargaining unit are represented by a  
14 recognized employee organization, the state shall be deemed the  
15 successor employer of the predecessor agency for the purposes of  
16 negotiating a collective bargaining agreement, and shall be  
17 obligated to recognize and to meet and confer in good faith with  
18 the recognized employee organization on all matters within the  
19 scope of representation, as defined in Section 110022, as to those  
20 individual providers. The recognized employee organization shall  
21 continue to perform all obligations of a recognized employee  
22 organization as to the individual providers in that county.

23 110009. (a) (1) As of the effective date of this title, all  
24 recognized employee organizations shall negotiate jointly on behalf  
25 of all bargaining units they represent to reach a single memorandum  
26 of understanding with the employer. The memorandum of  
27 understanding may contain addenda reflecting regional or  
28 county-level terms and conditions.

29 (2) Notwithstanding Section 110007, the votes of all eligible  
30 individual providers in all bargaining units shall be aggregated for  
31 ratification purposes if ratification is required by a recognized  
32 employee organization's constitution, bylaws, or other governing  
33 documents. Nothing in this section shall require individual provider  
34 ratification that is not otherwise required by a recognized employee  
35 organization's constitution, bylaws, or other governing documents.  
36 Nothing in this section shall require individual provider ratification  
37 in any manner that is not otherwise required by a recognized  
38 employee organization's constitution, bylaws, or other governing  
39 documents.

1 (b) Subject to subdivision (c), the employer and all employee  
2 organizations that are recognized by predecessor agencies before  
3 the effective date may meet before the effective date of this title  
4 to negotiate the terms of the memorandum of understanding, which  
5 shall not take effect until the effective date.

6 (c) On the effective date of this title, subject to Section 12306.16  
7 of the Welfare and Institutions Code, the employer shall assume  
8 the predecessor agencies' rights and obligations under any  
9 memorandum of understanding or agreement between a predecessor  
10 agency and a recognized employee organization that is in effect  
11 on the effective date for the duration thereof. Absent mutual  
12 consent to reopen, the terms of any transferred memorandum of  
13 understanding or agreement shall continue until the memorandum  
14 of understanding or agreement has expired. If a memorandum of  
15 understanding or agreement between a recognized employee  
16 organization and a predecessor agency has expired and has not  
17 been replaced by a successor memorandum of understanding or  
18 agreement as of the effective date of this title, the employer shall  
19 assume the obligation to meet and confer in good faith with the  
20 recognized employee organization.

21 (d) Notwithstanding any other law, except to the extent set forth  
22 in this chapter and as limited by Section 110022, the terms and  
23 conditions of any memorandum of understanding or agreement  
24 between a predecessor agency and a recognized employee  
25 organization in effect as of the effective date of this title shall not  
26 be reduced, except by mutual agreement between the recognized  
27 employee organization and the employer.

28 (e) The Controller shall be obligated to honor a written  
29 authorization for payroll deductions executed by an employee prior  
30 to the effective date of this title. The implementation of this title  
31 shall not be a cause for the Controller to cease administering  
32 payroll deductions pursuant to Section 1153 for any employee who  
33 has executed a written authorization for payroll deductions.

34 110010. (a) Except as otherwise expressly provided in this  
35 title, the enactment of this title shall not be a cause for the employer  
36 or any predecessor agency to modify or eliminate any existing  
37 memorandum of agreement or understanding, or to modify existing  
38 wages, benefits, or other terms and conditions of employment.  
39 Except to the extent set forth in this title, the enactment of this title  
40 shall not prevent the modification of existing wages, benefits, or



1 terms and conditions of employment through the meet and confer  
2 in good faith process or, in those situations in which the employees  
3 are not represented by a recognized employee organization, through  
4 appropriate procedures.

5 (b) This title does not relieve any predecessor agency of its  
6 obligation to meet and confer in good faith with a recognized  
7 employee organization pursuant to the Meyers-Milias-Brown Act  
8 (Chapter 10 (commencing with Section 3500) of Division 4 of  
9 Title 1) until the effective date of this title. This title does not  
10 require the predecessor agency to meet and confer with a  
11 recognized employee organization after the employer assumes the  
12 predecessor agency’s rights and obligations on the effective date  
13 of this title.

14 110011. If the employer and the recognized employee  
15 organization negotiate changes to locally administered health  
16 benefits for individual providers, the employer shall give 90 days’  
17 notice to the county of the agreed-upon changes.

18

19

CHAPTER 3. LABOR RELATIONS

20

21 110012. The Legislature finds and declares that collective  
22 bargaining for individual providers under this title constitutes a  
23 matter of statewide concern pursuant to Article XI of the California  
24 Constitution. Therefore, this title applies to all counties,  
25 notwithstanding charter provisions to the contrary.

26 110013. Where the language of this title is the same or  
27 substantially the same as that contained in Chapter 10.3  
28 (commencing with Section 3512) of Division 4 of Title 1, it shall  
29 be interpreted and applied by the board in a manner consistent  
30 with and in accordance with judicial interpretations of the same  
31 language.

32 110014. The employer shall grant exclusive recognition to  
33 employee organizations designated or selected pursuant to this  
34 title or rules established by the board for employees of the  
35 employer or an appropriate unit thereof, subject to the right of an  
36 employee to represent oneself.

37 110015. (a) Except as provided in this title, the powers and  
38 duties of the board described in Sections 3541.3 and 3541.5 shall  
39 also apply, as appropriate, to this title. Included among the  
40 appropriate powers of the board are the powers to order elections,

1 to conduct any election the board orders, to order unit modifications  
2 consistent with Section 110007, and to adopt rules.

3 (b) The board shall establish reasonable procedures for petitions  
4 and holding elections and determining appropriate units consistent  
5 with Section 110007. In a representation election, a majority of  
6 the votes cast by the employees in the appropriate bargaining unit  
7 shall be required.

8 (c) Upon the request of all affected recognized employee  
9 organizations, the employer shall recognize a merged bargaining  
10 unit consisting of bargaining units that were previously represented  
11 by separate recognized employee organizations.

12 110016. Notwithstanding any other law, if a decision by an  
13 administrative law judge regarding the recognition, certification,  
14 decertification, or unit modification, consistent with Section  
15 110007, of an employee organization is appealed, the decision  
16 shall be deemed the final order of the board if the board does not  
17 issue a ruling that supersedes the decision no later than 180 days  
18 after the appeal is filed.

19 110017. (a) Any charging party, respondent, or intervener  
20 aggrieved by a final decision or order of the board in an unfair  
21 practice case, except a decision of the board not to issue a  
22 complaint in such a case, and any party to a final decision or order  
23 of the board in a unit determination consistent with Section 110007,  
24 or in a representation, recognition, or election matter that is not  
25 brought as an unfair practice case, may petition for a writ of  
26 extraordinary relief from that decision or order. A board order  
27 directing an election shall not be stayed pending judicial review.

28 (b) A petition for a writ of extraordinary relief shall be filed in  
29 the district court of appeal having jurisdiction over the county  
30 where the events giving rise to the decision or order occurred. The  
31 petition shall be filed within 30 days from the date of the issuance  
32 of the board's final decision or order, or order denying  
33 reconsideration, as applicable. Upon the filing of the petition, the  
34 court shall cause notice to be served upon the board and thereafter  
35 shall have jurisdiction of the proceeding. The board shall file in  
36 the court the record of the proceeding, certified by the board, within  
37 10 days after the clerk's notice unless that time is extended by the  
38 court for good cause shown. The court shall have jurisdiction to  
39 grant any temporary relief or restraining order it deems just and  
40 proper, and in like manner to make and enter a decree enforcing,

1 modifying, and enforcing as modified, or setting aside in whole  
2 or in part the decision or order of the board. The findings of the  
3 board with respect to questions of fact, including ultimate facts,  
4 if supported by substantial evidence on the record considered as  
5 a whole, shall be conclusive. Title 1 (commencing with Section  
6 1067) of Part 3 of the Code of Civil Procedure relating to writs  
7 shall, except where specifically superseded by this section, apply  
8 to proceedings pursuant to this section.

9 (c) If the time to petition for extraordinary relief from a board  
10 decision or order has expired, the board may seek enforcement of  
11 any final decision or order in a district court of appeal or superior  
12 court having jurisdiction over the county where the events giving  
13 rise to the decision or order occurred. The board shall respond  
14 within 10 days to any inquiry from a party to the action as to why  
15 the board has not sought court enforcement of the final decision  
16 or order. If the response does not indicate that there has been  
17 compliance with the board's final decision or order, the board shall  
18 seek enforcement of the final decision or order upon the request  
19 of the party. The board shall file in the court the record of the  
20 proceeding, certified by the board, and appropriate evidence  
21 disclosing the failure to comply with the decision or order. If, after  
22 hearing, the court determines that the order was issued pursuant  
23 to the procedures established by the board and that the person or  
24 entity refuses to comply with the order, the court shall enforce the  
25 order by writ of mandamus or other proper process. The court may  
26 not review the merits of the order.

27 110018. An individual provider shall not be subject to punitive  
28 action or denied promotion, or threatened with any such treatment,  
29 for the exercise of lawful action as an elected, appointed, or  
30 recognized representative of any employee bargaining unit.

31 110019. (a) This title does not affect the right of an employee  
32 to authorize a dues deduction from the employee's salary or wages  
33 pursuant to Article 6 (commencing with Section 1150) of Chapter  
34 1 of Division 4 of Title 1.

35 (b) The Controller shall make deductions for the payment of  
36 dues to a recognized employee organization consistent with Article  
37 6 (commencing with Section 1150) of Chapter 1 of Division 4 of  
38 Title 1.

39 110020. Recognized employee organizations shall have the  
40 right to represent their members in their employment relations

1 with the employer. Employee organizations may establish  
2 reasonable restrictions regarding who may join and may make  
3 reasonable provisions for the dismissal of individuals from  
4 membership. This section does not prohibit an employee from  
5 appearing on their own behalf in their employment relations with  
6 the employer.

7 110021. The employer and employee organizations shall not  
8 interfere with, intimidate, restrain, coerce, or discriminate against  
9 employees because of the exercise of their rights guaranteed by  
10 this title.

11 110022. (a) The scope of representation shall include all  
12 matters relating to wages, benefits, and other terms and conditions  
13 of employment, including programmatic changes that affect terms  
14 and conditions of employment of individual providers. However,  
15 the scope of representation shall not include consideration of the  
16 merits, necessity, or organization of any service or activity provided  
17 by law or executive order, or the right to hire, fire and supervise  
18 the individual providers which is reserved to the IHSS recipient.

19 (b) All of the following matters are within the scope of  
20 representation:

21 (1) Wages and benefits, including, but not limited to, health  
22 insurance, retirement, and contributions to health benefit and  
23 retirement trust funds.

24 (2) The structure, time, and manner of recognized employee  
25 organization access to orientations of new providers.

26 (3) Impacts on individual providers' delivery of services as a  
27 result of changes in regulations, rules, policies, or resolutions  
28 adopted by the department and applicable to the In-Home  
29 Supportive Services programs.

30 (4) The operation of and rules applicable to county-level  
31 individual provider registries, including appeals procedures for  
32 registry decisions.

33 (5) Rules and regulations applicable to the identification and  
34 scheduling of backup individual providers.

35 (6) Payment, payment reporting, and payroll procedures  
36 applicable individual providers.

37 (7) Improvement of recruitment and retention of individual  
38 providers.

39 (8) Joint labor-management committees.

40 (9) Grievance arbitration.

1 (10) Professional training and development for individual  
2 providers.

3 (11) The deduction of membership dues and other voluntary  
4 deductions authorized by individual providers and allocation of  
5 the costs of implementing that deduction system.

6 (c) This section does not limit the right of the employer to  
7 consult and reach agreement with the recognized employee  
8 organizations on any matter outside the scope of representation.  
9 Any matter outside the scope of representation enumerated in this  
10 section shall not be considered a mandatory subject of bargaining.

11 110023. (a) Except in cases of emergency as provided in this  
12 section, the Governor, through the Governor’s designee, shall give  
13 reasonable written notice to each recognized employee organization  
14 affected by any law, rule, practice, or policy directly relating to  
15 matters within the scope of representation proposed to be adopted  
16 by the employer and shall give each recognized employee  
17 organization the opportunity to meet with the employer.

18 (b) In cases of emergency when the Governor, through the  
19 Governor’s designee, determines that any law, rule, policy, or  
20 procedure must be adopted immediately without prior notice or  
21 meeting with a recognized employee organization, the employer  
22 shall provide notice and an opportunity to meet at the earliest  
23 practical time following the adoption of the law, rule, policy, or  
24 procedure.

25 110024. (a) The Governor, through the Governor’s designee,  
26 shall meet and confer in good faith regarding wages, hours, and  
27 other terms and conditions of employment with representatives of  
28 recognized employee organizations, and shall consider fully such  
29 presentations as are made by the employee organization on behalf  
30 of its members prior to arriving at a determination of policy or  
31 course of action.

32 (b) “Meet and confer in good faith” means that the Governor,  
33 through the Governor’s designee, and representatives of recognized  
34 employee organizations, shall have the mutual obligation personally  
35 to meet and confer promptly upon request by either party and  
36 continue for a reasonable period of time in order to exchange freely  
37 information, opinions, and proposals, and to endeavor to reach  
38 agreement on matters within the scope of representation prior to  
39 the adoption by the state of its final budget for the ensuing year.

1 The process should include adequate time for the resolution of  
2 impasses.

3 110025. (a) Any side letter, appendix, or other addendum to  
4 a properly ratified memorandum of understanding that requires  
5 the expenditure of two hundred fifty thousand dollars (\$250,000)  
6 or more related to salary and benefits and that is not already  
7 contained in the original memorandum of understanding or the  
8 Budget Act, shall be provided by the Governor to the Joint  
9 Legislative Budget Committee. The Joint Legislative Budget  
10 Committee shall determine within 30 days after receiving the side  
11 letter, appendix, or other addendum if it presents substantial  
12 additions that are not reasonably within the parameters of the  
13 original memorandum of understanding and thereby requires  
14 legislative action to ratify the side letter, appendix, or other  
15 addendum.

16 (b) A side letter, appendix, or other addendum to a properly  
17 ratified memorandum of understanding that does not require the  
18 expenditure of funds shall be expressly identified by the Governor  
19 if that side letter, appendix, or other addendum is to be incorporated  
20 in a subsequent memorandum of understanding submitted to the  
21 Legislature for approval.

22 110026. If an agreement is reached by the representatives of  
23 the Governor and the recognized employee organizations, they  
24 shall jointly prepare a written memorandum of the understanding,  
25 and present it to the Legislature for determination by majority vote.

26 110027. (a) If, after a reasonable period of time, representatives  
27 of the employer and the recognized employee organizations fail  
28 to reach agreement, the dispute shall be referred to mediation  
29 before a mediator mutually agreeable to the parties. If the parties  
30 are unable to agree upon the mediator, either party may request  
31 the board to appoint a mediator in accordance with rules adopted  
32 by the board.

33 (b) The costs of mediation shall be divided one-half to the  
34 employer and one-half to the recognized employee organizations.

35 110028. (a) After all mediation procedures have been  
36 exhausted, if no agreement has been reached between the parties,  
37 disputes or controversies pertaining to wages, hours, benefits, or  
38 terms and conditions of employment that remain unresolved shall  
39 be submitted to a three-member board of arbitrators at the request  
40 of the employer or the recognized employee organizations.

1 (b) The recognized employee organizations and the employer  
2 shall each select and appoint one arbitrator to the board of  
3 arbitrators. The third member of the arbitration board shall be  
4 selected by agreement of the parties, and absent agreement within  
5 five days of a request for arbitration, the employer or the  
6 recognized employee organizations may then request from the  
7 State Mediation and Conciliation Service a list of seven persons  
8 qualified and experienced as labor arbitrators. If the recognized  
9 employee organizations and the employer cannot agree within  
10 three days after receipt of such a list on one of the seven persons  
11 to act as the neutral arbitrator, they shall alternately strike names  
12 from the list of nominees until one name remains and that person  
13 shall then become the neutral arbitrator and chairperson of the  
14 arbitration board.

15 (c) Any arbitration proceeding convened pursuant to this article  
16 shall be conducted in conformance with, and be subject to Title 9  
17 (commencing with Section 1290) of Part 3 of the Code of Civil  
18 Procedure. The arbitration board may, in its discretion, hold public  
19 hearings, receive evidence from the parties, and cause a transcript  
20 of the proceedings to be prepared. In the exercise of its discretion,  
21 the arbitration board may meet privately with the parties, mediate,  
22 or arbitrate the issues in dispute. The arbitration board may also  
23 adopt such other procedures that are designed to encourage an  
24 agreement between the parties, expedite the arbitration hearing  
25 process, or reduce the cost of the arbitration process.

26 (d) If an agreement is not reached before the conclusion of the  
27 arbitration hearings, the arbitration board shall direct each of the  
28 parties to submit, within such time limit as the arbitration board  
29 may establish, a last offer of settlement on each of the remaining  
30 issues in dispute. The arbitration board shall decide each issue by  
31 majority vote by selecting whichever last offer of settlement on  
32 that issue it finds most nearly conforms to those factors traditionally  
33 taken into consideration in the determination of wages, hours,  
34 benefits and terms and conditions of public and relevant private  
35 employment, including, but not limited to: changes in the average  
36 Consumer Price Index for goods and services; the wages, hours,  
37 benefits and terms and conditions of employment of employees  
38 performing similar services; stipulations of the parties; state and  
39 federal laws that are applicable to the employer; the interests and  
40 welfare of the public and the financial ability of the employer to

1 meet the costs of the award; the overall compensation presently  
2 received by the employees affected, including their direct wages,  
3 the costs of any vacations, holidays, or other paid time off,  
4 insurance, pension, medical and hospitalization benefits; and the  
5 continuity and stability of employment.

6 (e) After reaching a decision, the arbitration board shall mail  
7 or otherwise deliver a true copy of its decision to the parties. The  
8 decision of the arbitration board shall not be publicly disclosed  
9 and shall not be binding until 10 days after it is delivered to the  
10 parties. During that 10-day period, the parties may meet privately,  
11 attempt to resolve their differences, and by mutual agreement  
12 amend or modify the decision of the arbitration board. At the  
13 conclusion of the 10-day period, the decision of the arbitration  
14 board, as it may be modified or amended by the parties, shall be  
15 publicly disclosed, and shall become final and binding upon both  
16 of the parties. The Legislature may reject the decision of the  
17 arbitration panel by majority vote.

18 (f) The expenses of any arbitration proceeding convened  
19 pursuant to this section, including the fee for the services of the  
20 chairperson of the arbitration board, the costs of the preparation  
21 of the transcript of proceedings, and any other costs related to the  
22 conduct of the proceeding as determined by the arbitration board,  
23 shall be divided one-half to the employer and one-half to the  
24 recognized employee organizations. Any other expenses the parties  
25 may incur are to be borne by the party incurring that particular  
26 expense.

27 110029. If the Legislature does not approve or fully fund any  
28 provision of a memorandum of understanding which requires the  
29 expenditure of funds, either party may reopen negotiations on all  
30 or part of the memorandum of understanding. This section does  
31 not prevent the parties from agreeing and effecting those provisions  
32 of the memorandum of understanding that have received legislative  
33 approval or those provisions that do not require legislative action.

34 110030. A memorandum of understanding between the  
35 Governor and the recognized employee organizations shall be  
36 binding on all state departments and agencies, counties, public  
37 authorities or nonprofit consortia organized pursuant to Sections  
38 12306.1 or 12302.25 of the Welfare and Institutions Code before  
39 the effective date of this title, and any other political subdivision  
40 of the state that is involved in the administration of the In-Home



1 Supportive Services Program and the relevant contractors and  
2 subcontractors of those departments and agencies.

3 110031. The employer shall allow a reasonable number of  
4 representatives of recognized employee organizations reasonable  
5 time off without loss of compensation or other benefits when  
6 formally meeting and conferring with representatives of the  
7 employer on matters within the scope of representation.

8 110032. (a) It is unlawful for the employer to do any of the  
9 following:

10 (1) Impose or threaten to impose reprisals on employees, to  
11 discriminate or threaten to discriminate against employees, or  
12 otherwise to interfere with, restrain, or coerce employees because  
13 of their exercise of rights guaranteed by this title.

14 (2) Deny to employee organizations the rights guaranteed to  
15 them by this title.

16 (3) Refuse or fail to meet and negotiate in good faith with a  
17 recognized employee organization. For purposes of this  
18 subdivision, knowingly providing a recognized employee  
19 organization with inaccurate information regarding the financial  
20 resources of the employer, whether or not in response to a request  
21 for information, constitutes a refusal or failure to meet and  
22 negotiate in good faith.

23 (4) Dominate or interfere with the formation or administration  
24 of any employee organization, contribute financial or other support  
25 to any employee organization, or in any way encourage employees  
26 to join any employee organization in preference to another.

27 (5) Refuse to participate in good faith in any applicable impasse  
28 procedure.

29 (6) Deter or discourage individual providers from becoming or  
30 remaining members of an employee organization, or from  
31 authorizing representation by an employee organization, or from  
32 authorizing dues or other voluntary deductions to a provider  
33 organization.

34 (7) Refuse or fail to require any county, public authority, or  
35 nonprofit consortium organized pursuant to Sections 12306.1 or  
36 12302.25 of the Welfare and Institutions Code to comply with the  
37 provisions of any memorandum of understanding or addenda,  
38 appendices, or side letters thereto between the state and recognized  
39 employee organizations.

1 (8) Refuse or fail to require any county, public authority, or  
2 nonprofit consortium organized pursuant to Sections 12306.1 or  
3 12302.25 of the Welfare and Institutions Code to comply with  
4 Section 12301.24 of the Welfare and Institutions Code.

5 (b) It is unlawful for any county, public authority, or nonprofit  
6 consortium organized pursuant to Section 12306.1 or 12302.25 of  
7 the Welfare and Institutions Code, or any other political subdivision  
8 of the state that is involved in the administration of the In-Home  
9 Supportive Services Program and the relevant contractors and  
10 subcontractors of those departments and agencies, to do any of the  
11 following:

12 (1) Impose or threaten to impose reprisals on employees, to  
13 discriminate or threaten to discriminate against employees, or  
14 otherwise to interfere with, restrain, or coerce employees because  
15 of their exercise of rights guaranteed by this title.

16 (2) Deny to employee organizations the rights guaranteed to  
17 them by this title.

18 (3) Dominate or interfere with the formation or administration  
19 of any employee organization, contribute financial or other support  
20 to any employee organization, or in any way encourage employees  
21 to join any employee organization in preference to another.

22 (4) Deter or discourage individual providers from becoming or  
23 remaining members of an employee organization, or from  
24 authorizing representation by an employee organization, or from  
25 authorizing dues or other voluntary deductions to a provider  
26 organization.

27 (5) Deny to employee organizations the rights guaranteed to  
28 them by Section 12301.24 of the Welfare and Institutions Code.

29 110033. (a) The board may adopt reasonable rules and  
30 regulations for all of the following:

31 (1) Registering employee organizations.

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

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

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

38 (b) The board shall establish procedures whereby recognition  
39 of employee organizations formally recognized as majority  
40 representatives pursuant to a vote of the employees may be revoked

1 by a majority vote of the employees only after a period of not less  
2 than 12 months following the date of recognition.

3 (c) The employer shall not unreasonably withhold recognition  
4 of employee organizations.

5 (d) Employees and employee organizations may challenge a  
6 rule or regulation of the employer as a violation of this title. This  
7 subdivision does not restrict or expand the board's jurisdiction or  
8 authority as set forth in subdivisions (a) to (c), inclusive, of Section  
9 3541.3.

10 110034. (a) The board may adopt emergency regulations to  
11 implement this title. The initial adoption, amendment, or repeal  
12 of the regulations authorized by this section is deemed to address  
13 an emergency, for purposes of Sections 11346.1 and 11349.6, and  
14 the board is exempt for that purpose from the requirements of  
15 subdivision (b) of Section 11346.1. Initial emergency regulations  
16 and one readoption of emergency regulations authorized by this  
17 section shall be exempt from review by the Office of  
18 Administrative Law. The initial emergency regulations and one  
19 readoption of emergency regulations authorized by this section  
20 shall be submitted to the Office of Administrative Law for filing  
21 with the Secretary of State and each shall remain in effect for no  
22 more than 180 days, by which time final regulations may be  
23 adopted.

24 (b) The adoption, amendment, or repeal of a regulation  
25 authorized by this section is hereby exempt from subdivision (d)  
26 of Section 11346.1 and Section 11349.6, and the board shall  
27 transmit the regulations directly to the Secretary of State for filing.  
28 The regulations shall become effective immediately upon filing  
29 with the Secretary of State.

30 110035. The provisions of this title are severable. If any  
31 provision of this title or its application is held invalid, that  
32 invalidity shall not affect other provisions or applications that can  
33 be given effect without the invalid provision or application.

34 SEC. 5. Section 12300.8 is added to the Welfare and  
35 Institutions Code, to read:

36 12300.8. (a) On the effective date of Title 26 (commencing  
37 with Section 110000) of the Government Code, the state shall  
38 assume the responsibilities set forth in Title 26 (commencing with  
39 Section 110000) of the Government Code.

1 (b) A county or city and county, subject to subdivision (a), shall  
2 do any one of the following:

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

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

11 (3) Assume the functions performed by an entity or public  
12 authority pursuant to Section 12301.6, excluding subdivision (c)  
13 of that section.

14 (c) If a county or city and county assumes the functions  
15 described in paragraph (3) of subdivision (b), it may do any of the  
16 following:

17 (1) Contract for the performance of any or all of the functions  
18 assumed.

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

21 (3) Establish a public authority pursuant to Section 12301.6 for  
22 the performance of any functions assumed.

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

25 12301.6. (a) Notwithstanding Sections 12302 and 12302.1, a  
26 county board of supervisors may, at its option, elect to do either  
27 of the following:

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

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

32 (b) (1) To the extent that a county elects to establish a public  
33 authority pursuant to paragraph (2) of subdivision (a), the enabling  
34 ordinance shall specify the membership of the governing body of  
35 the public authority, the qualifications for individual members, the  
36 manner of appointment, selection, or removal of members, how  
37 long they shall serve, and other matters as the board of supervisors  
38 deems necessary for the operation of the public authority.

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

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

4 (B) A corporate public body, exercising public and essential  
5 governmental functions and that has all powers necessary or  
6 convenient to carry out the delivery of in-home supportive services,  
7 including the power to contract for services pursuant to Sections  
8 12302 and 12302.1 and that makes or provides for direct payment  
9 to a provider chosen by the recipient for the purchase of services  
10 pursuant to Sections 12302 and 12302.2. Employees of the public  
11 authority shall not be employees of the county for any purpose.

12 (3) (A) As an alternative, the enabling ordinance may designate  
13 the board of supervisors as the governing body of the public  
14 authority.

15 (B) Any enabling ordinance that designates the board of  
16 supervisors as the governing body of the public authority shall  
17 also specify that no fewer than 50 percent of the membership of  
18 the advisory committee shall be individuals who are current or  
19 past users of personal assistance services paid for through public  
20 or private funds or recipients of services under this article.

21 (C) If the enabling ordinance designates the board of supervisors  
22 as the governing body of the public authority, it shall also require  
23 the appointment of an advisory committee of not more than 11  
24 individuals who shall be designated in accordance with  
25 subparagraph (B).

26 (D) Prior to making designations of committee members  
27 pursuant to subparagraph (C), or governing body members in  
28 accordance with paragraph (4), the board of supervisors shall solicit  
29 recommendations of qualified members of either the governing  
30 body of the public authority or of any advisory committee through  
31 a fair and open process that includes the provision of reasonable  
32 written notice to, and a reasonable response time by, members of  
33 the general public and interested persons and organizations.

34 (4) If the enabling ordinance does not designate the board of  
35 supervisors as the governing body of the public authority, the  
36 enabling ordinance shall require the membership of the governing  
37 body to meet the requirements of subparagraph (B) of paragraph  
38 (3).

39 (c) (1) Any public authority created pursuant to this section  
40 shall be deemed to be the employer of in-home supportive services

1 personnel referred to recipients under paragraph (3) of subdivision  
2 (e) within the meaning of Chapter 10 (commencing with Section  
3 3500) of Division 4 of Title 1 of the Government Code. Recipients  
4 shall retain the right to hire, fire, and supervise the work of any  
5 in-home supportive services personnel providing services to them.

6 (2) (A) Any nonprofit consortium contracting with a county  
7 pursuant to this section shall be deemed to be the employer of  
8 in-home supportive services personnel referred to recipients  
9 pursuant to paragraph (3) of subdivision (e) for the purposes of  
10 collective bargaining over wages, hours, and other terms and  
11 conditions of employment.

12 (B) Recipients shall retain the right to hire, fire, and supervise  
13 the work of any in-home supportive services personnel providing  
14 services for them.

15 (d) A public authority established pursuant to this section or a  
16 nonprofit consortium contracting with a county pursuant to this  
17 section, when providing for the delivery of services under this  
18 article by contract in accordance with Sections 12302 and 12302.1,  
19 by direct payment to a provider chosen by a recipient in accordance  
20 with Sections 12302 and 12302.2, or by way of a provider of  
21 waiver personal care services provided pursuant to Section  
22 14132.97, shall comply with and be subject to, all statutory and  
23 regulatory provisions applicable to the respective delivery mode.

24 (e) Any nonprofit consortium contracting with a county pursuant  
25 to this section or any public authority established pursuant to this  
26 section shall provide for all of the following functions under this  
27 article, but shall not be limited to those functions:

28 (1) The provision of assistance to recipients in finding in-home  
29 supportive services personnel or waiver personal care services  
30 authorized pursuant to Section 14132.97 through the establishment  
31 of a registry.

32 (2) (A) (i) The investigation of the qualifications and  
33 background of potential personnel. Upon the effective date of the  
34 amendments to this section made during the 2009–10 Fourth  
35 Extraordinary Session of the Legislature, the investigation with  
36 respect to any provider in the registry or prospective registry  
37 applicant shall include criminal background checks requested by  
38 the nonprofit consortium or public authority and conducted by the  
39 Department of Justice pursuant to Section 15660, for those public  
40 authorities or nonprofit consortia using the agencies on the effective

1 date of the amendments to this section made during the 2009–10  
2 Fourth Extraordinary Session of the Legislature. Criminal  
3 background checks shall be performed no later than July 1, 2010,  
4 for any provider who is already on the registry on the effective  
5 date of amendments to this section made during the 2009–10 Fourth  
6 Extraordinary Session of the Legislature, for whom a criminal  
7 background check pursuant to this section has not previously been  
8 provided, as a condition of the provider’s continued enrollment in  
9 the IHSS program or the program authorizing waiver personal care  
10 services pursuant to Section 14132.97. Criminal background checks  
11 shall be conducted at the provider’s expense.

12 (ii) Upon notice from the Department of Justice notifying the  
13 public authority or nonprofit consortium that the prospective  
14 registry applicant has been convicted of a criminal offense specified  
15 in Section 12305.81, the public authority or nonprofit consortium  
16 shall deny the request to be placed on the registry for providing  
17 supportive services to any recipient of in-home supportive services  
18 or waiver personal care services authorized pursuant to Section  
19 14132.97.

20 (iii) Commencing 90 days after the effective date of the act that  
21 adds Section 12305.87, and upon notice from the Department of  
22 Justice that an applicant who is subject to the provisions of that  
23 section has been convicted of, or incarcerated following conviction  
24 for, an offense described in subdivision (b) of that section, the  
25 public authority or nonprofit consortium shall deny the applicant’s  
26 request to become a provider of supportive services to any recipient  
27 of in-home supportive services or waiver personal care services,  
28 subject to the individual waiver and exception processes described  
29 in that section. An applicant who is denied on the basis of Section  
30 12305.87 shall be informed by the public authority or nonprofit  
31 consortium of the individual waiver and exception processes  
32 described in that section.

33 (B) (i) Notwithstanding any other law, the public authority or  
34 nonprofit consortium shall provide an individual with a copy of  
35 ~~his or her~~ *the individual’s* state-level criminal offender record  
36 information search response as provided to the entity by the  
37 Department of Justice if the individual has been denied placement  
38 on the registry for providing supportive services to any recipient  
39 of the In-Home Supportive Services program or waiver personal  
40 care services based on this information. The copy of the state-level

1 criminal offender record information search response shall be  
2 included with the individual’s notice of denial. Along with the  
3 notice of denial, the public authority or public consortium shall  
4 also provide information in plain language on how an individual  
5 may contest the accuracy and completeness of, and refute any  
6 erroneous or inaccurate information in, ~~his or her~~ *their* state-level  
7 criminal offender record information search response as provided  
8 by the Department of Justice as authorized by Section 11126 of  
9 the Penal Code. The state-level criminal offender record  
10 information search response shall not be modified or altered from  
11 its form or content as provided by the Department of Justice.

12 (ii) The department shall develop a written appeal process for  
13 the current and prospective providers who are determined ineligible  
14 to receive payment for the provision of services in the In-Home  
15 Supportive Services program or waiver personal care services.  
16 Notwithstanding any other law, the public authority or nonprofit  
17 consortium shall provide the department with a copy of the  
18 state-level criminal offender record information search response  
19 as provided to the entity by the Department of Justice for any  
20 individual who has requested an appeal of a denial of placement  
21 on the registry for providing supportive services to any recipient  
22 of in-home supportive services or waiver personal care services  
23 based on clause (ii) or (iii) of subparagraph (A). The state-level  
24 criminal offender record information search response shall not be  
25 modified or altered from its form or content as provided by the  
26 Department of Justice and shall be provided to the address specified  
27 by the department in its written request.

28 (C) This paragraph does not prohibit the Department of Justice  
29 from assessing a fee pursuant to Section 11105 or 11123 of the  
30 Penal Code to cover the cost of furnishing summary criminal  
31 history information.

32 (D) As used in this section, “nonprofit consortium” means a  
33 nonprofit public benefit corporation that has all powers necessary  
34 to carry out the delivery of in-home supportive services or waiver  
35 personal care services under the delegated authority of a  
36 government entity.

37 (E) A nonprofit consortium or a public authority authorized to  
38 secure a criminal background check clearance pursuant to this  
39 section shall accept a clearance for an applicant described in clause  
40 (i) of subparagraph (A) who has been deemed eligible by another



1 nonprofit consortium, public authority, or county with criminal  
2 background check authority pursuant to either Section 12305.86  
3 or this section, to receive payment for providing services pursuant  
4 to this article. Existence of a clearance shall be determined by  
5 verification through the case management, information, and  
6 payrolling system, that another county, nonprofit consortium, or  
7 public authority with criminal background check authority pursuant  
8 to Section 12305.86 or this section has deemed the current or  
9 prospective provider to be eligible to receive payment for providing  
10 services pursuant to this article.

11 (3) Establishment of a referral system under which in-home  
12 supportive services personnel or waiver personal care services  
13 personnel shall be referred to recipients.

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

15 (5) (A) Performing any other functions related to the delivery  
16 of in-home supportive services or waiver personal care services.

17 (B) (i) Upon request of a recipient of in-home supportive  
18 services pursuant to this chapter, or a recipient of personal care  
19 services under the Medi-Cal program pursuant to Section 14132.95,  
20 a public authority or nonprofit consortium may provide a criminal  
21 background check on a nonregistry applicant or provider from the  
22 Department of Justice, in accordance with clause (i) of  
23 subparagraph (A) of paragraph (2) of subdivision (e). If the person  
24 who is the subject of the criminal background check is not hired  
25 or is terminated because of the information contained in the  
26 criminal background report, the provisions of subparagraph (B)  
27 of paragraph (2) of subdivision (e) shall apply.

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

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

37 (f) (1) Any nonprofit consortium contracting with a county  
38 pursuant to this section or any public authority created pursuant  
39 to this section shall be deemed not to be the employer of in-home  
40 supportive services personnel or waiver personal care services

1 personnel referred to recipients under this section for purposes of  
2 liability due to the negligence or intentional torts of the in-home  
3 supportive services personnel or waiver personal care services  
4 personnel.

5 (2) A nonprofit consortium contracting with a county pursuant  
6 to this section or any public authority created pursuant to this  
7 section is not liable for the action or omission of any in-home  
8 supportive services personnel or waiver personal care services  
9 personnel whom the nonprofit consortium or public authority did  
10 not list on its registry or otherwise refer to a recipient.

11 (3) Counties and the state shall be immune from any liability  
12 resulting from their implementation of this section in the  
13 administration of the In-Home Supportive Services program or in  
14 the administration of waiver personal care services authorized  
15 under Section 14132.97. Any obligation of the public authority or  
16 consortium pursuant to this section, whether statutory, contractual,  
17 or otherwise, shall be the obligation solely of the public authority  
18 or nonprofit consortium, and shall not be the obligation of the  
19 county or state.

20 (g) Any nonprofit consortium contracting with a county pursuant  
21 to this section shall ensure that it has a governing body that  
22 complies with the requirements of subparagraph (B) of paragraph  
23 (3) of subdivision (b) or an advisory committee that complies with  
24 subparagraphs (B) and (C) of paragraph (3) of subdivision (b).

25 (h) Recipients of services under this section may elect to receive  
26 services from in-home supportive services personnel or waiver  
27 personal care services personnel who are not referred to them by  
28 the public authority or nonprofit consortium. Those personnel shall  
29 be referred to the public authority or nonprofit consortium for the  
30 purposes of wages, benefits, and other terms and conditions of  
31 employment.

32 (i) (1) This section does not affect the state's responsibility  
33 with respect to the state payroll system, unemployment insurance,  
34 or workers' compensation and other provisions of Section 12302.2  
35 for providers of in-home supportive services or for individuals  
36 who are employed by a recipient of waiver personal care services  
37 authorized under Section 14132.97.

38 (2) (A) The Controller shall make any deductions from the  
39 wages of in-home supportive services personnel or waiver personal  
40 care services personnel, who are employees of a public authority

1 pursuant to paragraph (1) of subdivision (c), that are agreed to by  
 2 that public authority in collective bargaining with the designated  
 3 representative of the in-home supportive services personnel or  
 4 waiver personal care services personnel pursuant to Chapter 10  
 5 (commencing with Section 3500) of Division 4 of Title 1 of the  
 6 Government Code and transfer the deducted funds as directed in  
 7 that agreement.

8 *(B) This paragraph shall become inoperative on the effective*  
 9 *date of Title 26 (commencing with Section 110000) of the*  
 10 *Government Code.*

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

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

28 (k) Notwithstanding any other law, the county, in exercising its  
 29 option to establish a public authority, shall not be subject to  
 30 competitive bidding requirements. However, contracts entered into  
 31 by either the county, a public authority, or a nonprofit consortium  
 32 pursuant to this section shall be subject to competitive bidding as  
 33 otherwise required by law.

34 (l) (1) The department may adopt regulations implementing  
 35 this section as emergency regulations in accordance with Chapter  
 36 3.5 (commencing with Section 11340) of Part 1 of Division 3 of  
 37 Title 2 of the Government Code. For the purposes of the  
 38 Administrative Procedure Act, the adoption of the regulations shall  
 39 be deemed an emergency and necessary for the immediate  
 40 preservation of the public peace, health and safety, or general

1 welfare. Notwithstanding Chapter 3.5 (commencing with Section  
2 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
3 these emergency regulations shall not be subject to the review and  
4 approval of the Office of Administrative Law.

5 (2) Notwithstanding subdivision (h) of Section 11346.1 and  
6 Section 11349.6 of the Government Code, the department shall  
7 transmit these regulations directly to the Secretary of State for  
8 filing. The regulations shall become effective immediately upon  
9 filing by the Secretary of State.

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

15 (m) (1) If a county elects to form a nonprofit consortium or  
16 public authority pursuant to subdivision (a) before the State  
17 Department of Health Care Services has obtained all necessary  
18 federal approvals pursuant to paragraph (3) of subdivision (j) of  
19 Section 14132.95, all of the following shall apply:

20 (A) Subdivision (d) shall apply only to those matters that do  
21 not require federal approval.

22 (B) The second sentence of subdivision (h) shall not be  
23 operative.

24 (C) The nonprofit consortium or public authority shall not  
25 provide services other than those specified in paragraphs (1), (2),  
26 (3), (4), and (5) of subdivision (e).

27 (2) Paragraph (1) shall become inoperative when the State  
28 Department of Health Care Services has obtained all necessary  
29 federal approvals pursuant to paragraph (3) of subdivision (j) of  
30 Section 14132.95.

31 (n) (1) One year after the effective date of the first approval by  
32 the department granted to the first public authority, the Bureau of  
33 State Audits shall commission a study to review the performance  
34 of that public authority.

35 (2) The study shall be submitted to the Legislature and the  
36 Governor not later than two years after the effective date of the  
37 approval specified in subdivision (a). The study shall give special  
38 attention to the health and welfare of the recipients under the public  
39 authority, including the degree to which all required services have  
40 been delivered, out-of-home placement rates, prompt response to

1 recipient complaints, and any other issue the director deems  
2 relevant.

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

7 (o) Commencing July 1, 1997, the department shall provide  
8 annual reports to the appropriate fiscal and policy committees of  
9 the Legislature on the efficacy of the implementation of this  
10 section, and shall include an assessment of the quality of care  
11 provided pursuant to this section.

12 (p) (1) Notwithstanding any other law, and except as provided  
13 in paragraph (2), the department shall, no later than January 1,  
14 2009, implement subparagraphs (A) and (B) through an all-county  
15 letter from the director:

16 (A) Subparagraphs (A) and (B) of paragraph (2) of subdivision  
17 (e).

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

19 (2) The department shall, no later than July 1, 2009, adopt  
20 regulations to implement subparagraphs (A) and (B) of paragraph  
21 (1).

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

29 (r) (1) *Notwithstanding any other law, a county or city and*  
30 *county, a public authority established pursuant to this section, or*  
31 *a nonprofit consortium contracting with a county pursuant to this*  
32 *section, when providing for the delivery of services under this*  
33 *article by contract in accordance with Sections 12302 and 12302.1,*  
34 *by direct payment to a provider chosen by a recipient in*  
35 *accordance with Sections 12302 and 12302.2, or by way of a*  
36 *provider of waiver personal care services provided pursuant to*  
37 *Section 14132.97, shall comply with, and be subject to, all*  
38 *provisions of any memorandum of understanding or addenda,*  
39 *appendices, or side letters thereto between the state and recognized*  
40 *employee organizations, as defined in Title 26 (commencing with*

1 *Section 110000) of the Government Code. The state shall assume,*  
2 *and is liable for, any act by a county or city and county, a public*  
3 *authority established pursuant to this section, or a nonprofit*  
4 *consortium contracting with a county, that is in violation of a*  
5 *memorandum of understanding or addenda, appendices, or side*  
6 *letters. Those violations may be adjusted through a grievance*  
7 *procedure contained in a memorandum of understanding between*  
8 *the state and recognized employee organizations.*

9 (2) *This subdivision shall become operative on the effective date*  
10 *of Title 26 (commencing with Section 110000) of the Government*  
11 *Code.*

12 SEC. 7. Section 12301.24 of the Welfare and Institutions Code  
13 is amended to read:

14 12301.24. (a) All prospective providers shall complete an  
15 in-person provider orientation at the time of enrollment, as  
16 developed by the department, in consultation with counties, which  
17 shall include, but is not limited to, all of the following:

- 18 (1) The requirements to be an eligible IHSS provider.
- 19 (2) A description of the IHSS program.
- 20 (3) The rules, regulations, and provider-related processes and  
21 procedures, including timesheets.
- 22 (4) The consequences of committing fraud in the IHSS program.
- 23 (5) The Medi-Cal toll-free telephone fraud hotline and internet  
24 website for reporting suspected fraud or abuse in the provision or  
25 receipt of supportive services.
- 26 (6) The applicable federal and state requirements regarding  
27 minimum wage and overtime pay, including paid travel time and  
28 wait time, and the requirements of Section 12300.4.
- 29 (7) *Any other information required to be communicated to*  
30 *prospective providers by a memorandum of understanding,*  
31 *appendix, or side letter between recognized employee organizations*  
32 *and the state.*

33 (b) In order to complete provider enrollment, at the conclusion  
34 of the provider orientation, all applicants shall sign a statement  
35 specifying that the provider agrees to all of the following:

- 36 (1) The prospective provider will provide to a recipient the  
37 authorized services.
- 38 (2) The prospective provider has received a demonstration of,  
39 and understands, timesheet requirements, including content,  
40 signature, and fingerprinting, when implemented.

1 (3) The prospective provider shall cooperate with state or county  
2 staff to provide any information necessary for assessment or  
3 evaluation of a case.

4 (4) The prospective provider understands and agrees to program  
5 expectations and is aware of the measures that the state or county  
6 may take to enforce program integrity.

7 (5) The prospective provider has attended the provider  
8 orientation and understands that failure to comply with program  
9 rules and requirements may result in the provider being terminated  
10 from providing services through the IHSS program.

11 (c) The county shall indefinitely retain this statement in the  
12 provider's file. Refusal of the provider to sign the statement  
13 described in subdivision (b) shall result in the provider being  
14 ineligible to receive payment for the provision of services and  
15 participate as a provider in the IHSS program.

16 (d) All of the following shall apply to the provider orientation  
17 described in subdivision (a):

18 (1) (A) The orientation shall be an onsite orientation that all  
19 prospective providers shall attend in person.

20 (B) (i) If the state or local public health agency issues an order  
21 limiting the size of gatherings, a county may hold a series of  
22 smaller in-person orientations that meet the same criteria specified  
23 in this section. A county is not required to hold an orientation in  
24 which prospective providers attend in person if the state or local  
25 health agency issues an order that prevents the in-person orientation  
26 from occurring.

27 (ii) If an orientation is not required to be held in person pursuant  
28 to clause (i), the county shall hold an orientation that is in person  
29 within 30 calendar days of the date that the public health order  
30 restrictions are lifted. Counties or IHSS public authorities may  
31 provide a written attestation to the recognized employee  
32 organization if public health conditions cause staffing or facility  
33 challenges that cause delays, and such an attestation will result in  
34 a one-time extension of 15 calendar days for the return to in-person  
35 orientations.

36 (C) The requirement for the orientation to be held in person and  
37 prospective providers to attend the orientation in person shall not  
38 apply if parties to a collective bargaining agreement expressly  
39 agree to waive that requirement and have a negotiated alternative  
40 method for the provision of the orientation.

1 (2) Prospective providers may attend the onsite orientation only  
2 after completing the application for the IHSS provider enrollment  
3 process described in subdivision (a) of Section 12305.81.

4 (3) Any oral presentation and written materials presented at the  
5 orientation shall be translated into all IHSS threshold languages  
6 in the county.

7 (4) (A) Representatives of the recognized employee  
8 organization in the county shall be permitted to make a presentation  
9 of up to 30 minutes at the beginning of the orientation. Prior to  
10 implementing the orientation requirements set forth in this  
11 subdivision, counties shall provide at least the level of access to,  
12 and the ability to make presentations at, provider orientations that  
13 they allowed the recognized employee organization in the county  
14 as of September 1, 2014. Counties shall not discourage prospective  
15 providers from attending, participating, or listening to the  
16 orientation presentation of the recognized employee organization.  
17 Prospective providers may, by their own accord, choose not to  
18 participate in the recognized employee organization presentation.

19 (B) Prior to scheduling a provider orientation, the county shall  
20 provide the recognized employee organization in the county with  
21 not less than 10 days advance notice of the planned date, time, and  
22 location of the orientation. If, within 3 business days of receiving  
23 that notice, the recognized employee organization notifies the  
24 county of its unavailability for the planned orientation, the county  
25 shall make reasonable efforts to schedule the orientation so the  
26 recognized employee organization can attend, so long as  
27 rescheduling the orientation does not delay provider enrollment  
28 by more than 10 business days. The requirement to make  
29 reasonable efforts to reschedule may be waived, as necessary, due  
30 to a natural disaster or other declared state of emergency, or by  
31 mutual agreement between the county and the recognized employee  
32 organization.

33 ~~(C) Prior to~~ *Not less than 10 days before* the orientation, the  
34 recognized employee organization shall be provided with the  
35 information described in subdivision (b) of Section 7926.300 of  
36 the Government Code for prospective providers.

37 (e) To the extent that the orientation is modified from an onsite  
38 and in-person orientation, as required by paragraph (1) of  
39 subdivision (d), the recognized employee organization in the county  
40 shall be provided with the same right to make a presentation, the



1 same advance notice of scheduling, and the same information  
2 regarding the applicants, providers, or prospective providers who  
3 will attend the orientation, as the organization would receive for  
4 an onsite orientation.

5 (f) A claim may be brought before the Public Employment  
6 Relations Board for an alleged violation of Section 3550 of the  
7 Government Code if the county has not complied with the  
8 requirements of this section within 30 days of being notified by  
9 the recognized employee organization.

10 ~~(g) This section shall become operative on January 1, 2023.~~

11 (g) *As used in this section, the following definitions apply:*

12 (1) *“Individual provider” has the meaning set forth in*  
13 *subdivision (b) of Section 110003 of the Government Code.*

14 (2) *“Recognized employee organization” has the meaning set*  
15 *forth in subdivision (i) of Section 110003 of the Government Code.*

16 (h) *If the terms of this section are in conflict with the provisions*  
17 *of a memorandum of understanding, appendix, or side letter*  
18 *between recognized employee organizations and the state, the*  
19 *memorandum of understanding, appendix, or side letter shall be*  
20 *controlling without further legislative action.*

21 (i) *The changes made by the act adding this subdivision shall*  
22 *become operative on the effective date of the act adding Title 26*  
23 *(commencing with Section 110000) to the Government Code.*

24 SEC. 8. The Legislature finds and declares that Section 3 of  
25 this act, which amends Section 7926.300 of the Government Code,  
26 furthers, within the meaning of paragraph (7) of subdivision (b)  
27 of Section 3 of Article I of the California Constitution, the purposes  
28 of that constitutional section as it relates to the right of public  
29 access to the meetings of local public bodies or the writings of  
30 local public officials and local agencies. Pursuant to paragraph (7)  
31 of subdivision (b) of Section 3 of Article I of the California  
32 Constitution, the Legislature makes the following findings:

33 It is in the public interest, and it furthers the purposes of  
34 paragraph (7) of subdivision (b) of Section (3) of Article I of the  
35 California Constitution, to ensure that certain personal information  
36 regarding persons paid by the state to provide in-home supportive  
37 and related social services is made available, upon request, to an  
38 exclusive bargaining agent and employee organization seeking  
39 representation rights for purposes of collective bargaining.

1 SEC. 9. The Legislature finds and declares that Section 4 of  
2 this act, which adds Title 26 (commencing with Section 110000)  
3 to the Government Code, imposes a limitation on the public's right  
4 of access to the meetings of public bodies or the writings of public  
5 officials and agencies within the meaning of Section 3 of Article  
6 I of the California Constitution. Pursuant to that constitutional  
7 provision, the Legislature makes the following findings to  
8 demonstrate the interest protected by this limitation and the need  
9 for protecting that interest:

10 To allow arbitration proceedings to be conducted under the  
11 In-Home Supportive Services Employer-Employee Relations Act  
12 in conformity with law governing the arbitration process, it is  
13 necessary to allow the arbitration board to meet privately with  
14 parties as necessary to address issues in dispute.

15 SEC. 10. No reimbursement is required by this act pursuant to  
16 Section 6 of Article XIII B of the California Constitution for certain  
17 costs that may be incurred by a local agency or school district  
18 because, in that regard, those costs under this act would result from  
19 a legislative mandate that is within the scope of paragraph (7) of  
20 subdivision (b) of Section 3 of Article I of the California  
21 Constitution.

22 However, if the Commission on State Mandates determines that  
23 this act contains other costs mandated by the state, reimbursement  
24 to local agencies and school districts for those costs shall be made  
25 pursuant to Part 7 (commencing with Section 17500) of Division  
26 4 of Title 2 of the Government Code.

O

**From:** [Farrah, Michael \(BOS\)](#)  
**To:** [BOS Legislation, \(BOS\)](#); [Somera, Alisa \(BOS\)](#)  
**Cc:** [Melgar, Myrna \(BOS\)](#); [Angulo, Sunny \(BOS\)](#); [Timony, Simon \(BOS\)](#); [Burch, Percy \(BOS\)](#)  
**Subject:** Introduction of Resolution supporting AB 1672  
**Date:** Tuesday, April 11, 2023 1:49:25 PM  
**Attachments:** [20230AB1672\\_99.pdf](#)  
[Introduction Form - AB1672.pdf](#)  
[AB1672.doc](#)

---

Good Afternoon Legislative Staff:

Supervisor Melgar will be introducing a Resolution today supporting AB1672 For Adoption Without Committee Reference.

Confirming that these matters are routine, not contentious in nature, and of no special interest

The League Of California Cities and the California Association of Counties have not taken a position at this time.

A copy of the AB1672 is attached.

Michael Farrah  
Legislative Aide to Supervisor Melgar

## Introduction Form

*(by a Member of the Board of Supervisors or the Mayor)*

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- 2. Request for next printed agenda (For Adoption Without Committee Reference)  
*(Routine, non-controversial and/or commendatory matters only)*
- 3. Request for Hearing on a subject matter at Committee
- 4. Request for Letter beginning with "Supervisor [ ] inquires..."
- 5. City Attorney Request
- 6. Call File No. [ ] from Committee.
- 7. Budget and Legislative Analyst Request (attached written Motion)
- 8. Substitute Legislation File No. [ ]
- 9. Reactivate File No. [ ]
- 10. Topic submitted for Mayoral Appearance before the Board on [ ]

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

- Small Business Commission       Youth Commission       Ethics Commission
- Planning Commission       Building Inspection Commission       Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

- Yes                       No

*(Note: For Imperative Agenda items (a Resolution not on the printed agenda), use the Imperative Agenda Form.)*

Sponsor(s):

**Melgar**

Subject:

[Supporting California State Assembly Bill No. 1672 In-Home Supportive Services Employer-Employee Relations Act]

Long Title or text listed:

Resolution Supporting California State Assembly Bill No. 1672 In Home Supportive Services Employer-Employee Relations Act authored by Assembly Member Matt Haney, to expand the definition of "public employer," to include an employer who is subject to the In-Home Supportive Services Employer-Employee Relations Act.

Signature of Sponsoring Supervisor: /MM