

1 [In-Home Supportive Services – Public Authority.]

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3 **Ordinance amending Administrative Code Chapter 70, regarding the In Home**
4 **Supportive Services Public Authority, to eliminate obsolete terms and amending**
5 **Section 70.2 to provide compensation for members of the governing body for attending**
6 **meetings.**

7 Note: Additions are single-underline italics Times New Roman;
8 deletions are ~~strikethrough italics Times New Roman~~.
9 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

10 Be it ordained by the People of the City and County of San Francisco:

11 Section 1. The San Francisco Administrative Code is hereby amended by Section
12 70.1, to read as follows:

13 **SEC. 70.1. PURPOSE.**

14 The Board of Supervisors for the City and County of San Francisco (hereinafter, City)
15 by this Chapter establishes a public authority whose powers are derived from and consistent
16 with the provisions of Welfare and Institutions Code Section 12301.6. The name of this public
17 authority shall be the In-Home Supportive Services Public Authority, and shall be referred to in
18 this Chapter as the "Authority." Its purpose is to ~~provide assistance in finding personnel~~ assure the
19 availability of independent providers for the In-Home Supportive Services Program (IHSS)
20 through the establishment of a central registry, and related functions, and to perform any other
21 functions, as may be necessary for the operation of the Authority, or related to the delivery of
22 IHSS in San Francisco, subject to all applicable federal and State laws and regulations, and to
23 the limitations set forth in this Chapter.

24 Section 2. The San Francisco Administrative Code is hereby amended by Section
25 70.2, to read as follows:

1 **SEC. 70.2. MEMBERSHIP OF GOVERNING BODY.**

2 (a) The governing body of the Authority shall be composed of ~~11~~ 13 members
3 appointed by the Board of Supervisors. The Board of Supervisors shall solicit
4 recommendations for appointment of qualified members through a fair and open process,
5 including reasonable written notice to, and affording reasonable response time from, members
6 of the general public and interested persons and organizations. No fewer than 50 percent of
7 the membership shall be individuals who are current or past users of personal assistance
8 services paid for through public or private funds or who are recipients of IHSS, referred to in
9 this Chapter as "consumers."

10 (b) Membership categories on the governing body shall be as follows:

11 (1) Two consumers over the age of ~~60~~ 55 years, each authorized to represent
12 organizations that advocate for aging people with disabilities;

13 (2) Two consumers between the ages of 18 and 60 years, each authorized to
14 represent organizations that advocate for younger people with disabilities;

15 (3) One consumer at-large over the age of ~~60~~ 55 years;

16 (4) One consumer at-large between the ages of 18 and 60 years;

17 (5) One worker who provides personal assistance services to a consumer;

18 (6) One Commissioner from the Human Services Commission, recommended to the
19 Board by the Commission;

20 (7) One Commissioner from the Commission on Aging, recommended to the Board by
21 the Commission;

22 (8) One Commissioner from the Public Health Commission, recommended to the
23 Board by the Commission;

1 (9) One member of the Mayor's Disability Council, recommended to the Board by the
2 Council.

3 (c) For purposes of Government Code Section 87103, and 2 California Code of
4 Regulations 18703.3, it is hereby found and declared that the persons appointed to this
5 governing body are appointed to represent and further the interests of the specific economic
6 interest which an individual member is appointed to represent.

7 (d) Initial appointment of both the consumer and worker members shall be made from
8 a list of recommendations based on applications designed by, and submitted to, the IHSS
9 Task Force of Planning for Elders in the Central City. ~~Succeeding appointments of consumer and~~
10 ~~worker members shall be based on a procedure developed by the governing body of the Authority,~~
11 ~~within the first six months of operation, after receiving recommendations from the IHSS Task Force of~~
12 ~~Planning for Elders in the Central City. The governing body of the Authority may make~~
13 ~~recommendations to the Board of Supervisors for establishing procedures for consumer and worker~~
14 ~~member appointments.~~ Every attempt shall be made to assure that each appointee will be able
15 to serve the full term to which he or she has been appointed, in order to ensure continuity in
16 the work of the Authority.

17 (e) If during his or her term as a member of the governing body of the Authority, a
18 ~~Human Services, Aging, or Health~~ Commissioner or member of the Mayor's Disability Council no
19 longer serves on ~~the~~ their respective Commission or Council, the body from which that member
20 came shall make another recommendation for appointment and notify the Board of
21 Supervisors of the end of that member's formal service ~~on their respective Commission or on the~~
22 ~~Council.~~

23 (f) After the terms of the initial period are complete, each appointment to the governing
24 body shall thereafter be for a three-year term. A member may be reappointed, but may not
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1 serve more than a total of nine consecutive years on the governing body. *The initial*
2 *appointment periods shall be staggered as follows:*

3 *(1) Three one year terms;*

4 *(2) Four two year terms; and*

5 *(3) Four three year terms.*

6 *Upon appointment, members shall draw lots to determine the length of each member's initial*
7 *term. Members shall serve without compensation.*

8 (g) Qualified applicants must reside in San Francisco and have: familiarity with, or
9 knowledge of, personal assistance services; the capacity to understand their role to aid and
10 assist the Authority in the administration of its duties; and the ability to attend regularly
11 scheduled meetings, which shall occur only in facilities which meet disability access
12 requirements. Those City departments from which Authority members are drawn shall
13 provide appropriate assistance to their respective representative in fulfilling his or her duties to
14 the Authority. *Within the first 90 days, the members of the governing body of the Authority shall*
15 *receive orientation and training from the IHSS Task Force of Planning for Elders in the Central City*
16 *and the Department of Human Services regarding the functions and duties of the Authority, current*
17 *issues related to delivery of IHSS and the responsibilities of the Authority's governing body.* Each
18 subsequent new member shall receive similar orientation and training from Authority staff
19 within 60 days of appointment.

20 (h) Regulations governing the grounds for removal from, *and use of alternates on,* the
21 governing body shall be *proposed by established in the Bylaws of the Authority. governing body and*
22 *submitted to the Board of Supervisors within 90 days of the date of the first meeting of the governing*
23 *body. These regulations and any proposed amendments shall be initiated exclusively by the governing*
24 *body and submitted to the Board of Supervisors for review, and shall become effective within 90 days of*

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1 ~~the date of receipt by the Board, unless disapproved by the Board by resolution. In exercising these~~
2 ~~review powers, the Board of Supervisors may only approve or disapprove; it may not modify such~~
3 ~~regulations and proposed amendments.~~

4 (i) Members of the governing body shall receive compensation as established in the Annual
5 Salary Ordinance for attending meetings of the governing body. Additionally, members shall be
6 reimbursed for all necessary expenses incurred for representing the governing body at regional, state
7 and/or national meetings conferences and workshops or other activities as authorized by the governing
8 body.

9 Section 3. The San Francisco Administrative Code is hereby amended by Section
10 70.3, to read as follows:

11 **SEC. 70.3. POWERS.**

12 (a) The Authority shall be an entity separate from the City and County of San
13 Francisco and shall file the Statement of Fact for the Roster of Public Agencies required by
14 Section 53051 of the Government Code.

15 (b) The Authority shall be a corporate public body, exercising public and essential
16 governmental functions with all powers necessary and convenient to carry out the delivery of
17 IHSS, including the power to contract for services pursuant to Sections 12302 and 12302.1 of
18 the Welfare and Institutions Code, subject to any limitations set forth in this Chapter.

19 (c) The Authority shall only engage in the following duties and functions involving IHSS
20 until such time that the requirements for the transferring of additional functions, as set forth in
21 Section 70.6 of this Chapter, are met: planning and advocacy for IHSS consumers and
22 ~~personnel-independent providers~~; operation of a registry, including investigation of the
23 qualifications and background of potential ~~personnel-independent providers~~, and referral of
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1 potential ~~personnel~~ independent providers to consumers; and acting as the employer of IHSS
2 ~~personnel~~ independent providers in conformance with Subsection (g) of this Section.

3 (d) Any obligation or legal liability of the Authority, whether statutory, contractual or
4 otherwise, shall be the obligation or liability solely of the Authority and shall not be the
5 obligation or the liability of the City. All contracts between the Authority and third parties shall
6 contain an express provision advising the contractor that the Authority is a separate
7 governmental entity and that such agreement does not bind the City.

8 (e) All contracts, leases, or other agreements of any nature, including collective
9 bargaining agreements, between the Authority and any party, except those with the City, shall
10 contain the following statement: "The Authority is an independent legal entity, separate and
11 apart from the City and County of San Francisco. The Authority has no power to bind the City
12 to any contractual or legal obligations. Nor may the obligees of the Authority seek recourse
13 against the City for any financial or legal obligation of the Authority."

14 (f) Employees of the Authority shall not be employees of the City for any purpose.

15 (g) The Authority shall be deemed to be the employer of IHSS ~~personnel~~ independent
16 providers referred to consumers, under Paragraph (3) of Subdivision (d) within the meaning of
17 Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code,
18 commonly known as the Meyers-Milias-Brown Act. The Authority shall not be deemed to be
19 the employer of IHSS ~~personnel referred to consumers~~ independent providers under this Chapter
20 for purposes of liability due to the negligence or intentional torts of ~~the~~ those IHSS independent
21 providers~~personnel~~.

22 (h) Nothing in these enumerated powers shall be construed to limit or interfere with the
23 consumers' right to retain, select, terminate, and direct the work of any ~~worker~~ independent
24 provider providing ~~services~~ IHSS to them.

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1 (i) Nothing in these enumerated powers shall be construed to alter, require the
2 alteration of, or interfere with the State's payroll system and other provisions of Section
3 12302.2 of the Welfare and Institutions Code for independent providers of IHSS, or to affect
4 the State's responsibilities with respect to unemployment insurance, or workers' compensation
5 for independent providers of IHSS.

6 (j) The Authority shall maintain general liability insurance in an amount determined to
7 be adequate by the City's Risk Manager, and shall name the City as an additional insured.

8 (k) The governing body of the Authority shall hire ~~staff~~ the Executive Director of the
9 Authority, and adopt rules and regulations, not inconsistent with the provisions of this Chapter,
10 in order to implement and interpret this Chapter.

11 Section 4. The San Francisco Administrative Code is hereby amended by Section
12 70.4, to read as follows:

13 **SEC. 70.4. FISCAL PROVISIONS.**

14 (a) In order to facilitate the implementation of the Authority in a timely manner, the City
15 Treasurer and the City Controller may enter into contracts with the Authority for the provision
16 of fiscal services, with or without compensation from the Authority, under such terms and
17 conditions as the Treasurer and Controller may require. If any such contract is executed, the
18 Controller shall establish and maintain a specific account or accounts for this purpose. In
19 addition, other City departments may enter into contracts with the Authority, with or without
20 compensation, for the provision of various services that may be needed by the Authority. All
21 such contracts are subject to the applicable approval process as required by the San
22 Francisco Charter, the San Francisco Administrative Code and the respective department
23 regulation and policy.

1 (b) In adopting this Chapter, the Board recognizes that the funding of IHSS is the
2 product of a complex relationship of federal, State and City financing, and that the ability of
3 the Authority to operate and to negotiate the wages and benefits of the independent providers
4 of IHSS is contingent upon the availability of adequate funding from all sources. Nothing in
5 this Chapter is intended to require the City to appropriate any funds for the operation of the
6 Authority or for the payment of wages or benefits to the independent providers of IHSS.

7 (c) The ~~Department of~~ Human Services Agency through the Department of Aging and Adult
8 Services shall be the financial liaison between the City and County of San Francisco and the
9 Authority. The ~~Department of~~ Human Services Agency shall take appropriate action in order to
10 procure all available federal and State funds for the administration and delivery of IHSS, and
11 by contract, grant or agreement, transfer monies procured from these sources and from any
12 funds that the City may appropriate, to the Authority for the operation of its designated
13 functions, subject to the budgetary and fiscal provisions of the San Francisco Charter and the
14 San Francisco Administrative Code. The Authority shall submit its annual funding request to
15 the Department of ~~Human Services~~ Aging and Adult Services no later than the deadline
16 determined by the ~~Department of~~ Human Services Agency to enable the ~~Department~~ Agency to
17 prepare and submit its budget to the Mayor's office. The Authority shall comply with all
18 claiming and reporting deadlines set by the ~~Department of~~ Human Services Agency and the
19 Department of Aging and Adult Services.

20 The total of all operating costs, wages and benefits proposed or established by the
21 Authority must be consistent with the provisions of the final City budget.

22 The Authority may not establish a payment rate that includes the costs of wages,
23 benefits and operation, until the governing body of the Authority makes a finding that the
24 funds necessary for payment of that rate are legally available.

1 (d) If and when the federal or State agencies responsible for IHSS promulgate
2 regulations that authorize and create direct funding mechanisms for the Authority, the
3 Authority and the ~~Department~~ of Human Services Agency may modify their agreements to
4 facilitate that direct financial relationship.

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6 APPROVED AS TO FORM:
7 DENNIS J. HERRERA, City Attorney

8 By: VIRGINIA DARIO ELIZONDO
9 Deputy City Attorney

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