



June 2, 2021

The Honorable Nancy Skinner  
Chair, Senate Budget Committee  
State Capitol, Room 5094  
Sacramento, CA 95814

The Honorable Phil Ting  
Chair, Assembly Budget Committee  
State Capitol, Room 6026  
Sacramento, CA 95814

**Re: IHSS Fiscal Penalty Proposal – Oppose**

Dear Senator Skinner and Assembly Member Ting:

On behalf of the California State Association of Counties (CSAC), California Association of Public Authorities (CAPA), County Welfare Directors Association of California (CWDA), Urban Counties of California (UCC), and Rural County Representatives of California (RCRC), we are writing to express our strong opposition to the proposal in the legislative budget package to impose a ten percent penalty on counties that have failed to reach an In-Home Supportive Services (IHSS) collective bargaining agreement. The fiscal penalty proposal ignores the progress that has been made on IHSS collective bargaining and is inconsistent with previous actions. We are appreciative that the Legislature is supporting the coalition and May Revision proposal to provide continuity for IHSS collective bargaining funding mechanisms, which is the best way to continue progress on reaching collective bargaining agreements.

**Counties Have Made Significant Progress on IHSS Collective Bargaining**

The Legislature has indicated a strong interest in seeing an increased number of collective bargaining agreements. This is exactly what has occurred since the enactment of the new IHSS Maintenance of Effort (MOE) by Senate Bill 80 (Chapter 27, Statutes of 2019). County Supervisors have demonstrated a commitment to increasing wages and benefits for IHSS providers by reaching a number of new agreements or memorandums of understanding (MOUs). Please consider the following highlights:

1. **New agreements have been reached at a faster pace** – There are new agreements in 26 counties since the new IHSS MOE was enacted on July 1, 2019. This is far above the pace of new agreements in prior years. This includes 12 agreements that have been reached even during the uncertain fiscal situation caused by the COVID-19 pandemic.
2. **Counties are dedicating tens of millions of dollars in new funding for wage increases every year** – The estimated county share of costs for wages and health

benefits increases that are going into effect in 2020-21 is \$28.8 million. This follows up on county investments of \$43.1 million and \$72.4 million in the prior two fiscal years. These are ongoing and sustained commitments of county funding for IHSS provider wages and benefits.

3. **More than 95 percent of IHSS providers work in a county that has increased wages since 2017** – A total of 46 counties have increased wages since 2017 covering more than 95 percent of IHSS providers. In all cases, these counties are permanently paying IHSS providers above the state minimum wage.

There are 45 counties that have reached an MOU to increase wages under the 2017 MOE or 2019 MOE, and one county that has increased wages through a local living wage ordinance. Of the remaining 12 counties, three are currently negotiating, six are waiting for outreach from the union, and three have gone through factfinding and/or mediation.

### **Proposal is Inconsistent with Previous Actions**

Senate Bill 80 included a provision to create a one-time 1991 Realignment withholding related to IHSS collective bargaining that could potentially apply to counties without a collective bargaining agreement in place. A county would be subject to the withholding only if all of the following four conditions were met: (1) A county and provider union have completed the full IHSS mediation and factfinding process; (2) the factfinding panel has issued recommended settlement terms that are more favorable to the union; (3) the county has an expired IHSS collective bargaining agreement; and (4) the county and union have not reached an agreement within 90 days after the release of the factfinding recommendations. It is important to note that application of this Realignment withholding does not mean that a county has failed to bargain in good faith. It only means that a county and provider union were unable to reach an agreement. This provision became inoperative on January 1, 2021.

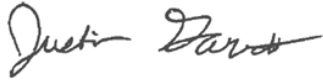
The Administration, Legislature, counties, and provider unions all reached agreement on the Realignment withholding provisions and the one-time, one percent withholding amount. Now UDW/AFSCME Local 3930 has asked for a withholding amount that is ongoing and ten times greater than what was previously agreed to only two years ago. However, since that time, the amount of IHSS collective bargaining agreements that has been achieved has more than doubled. In addition, the ten percent penalty amount would cost significantly more than the cost of wage increases that have been agreed to in the majority of counties that have increased wages.

Counties are reaching agreements because the Administration and the Legislature enacted a more sustainable IHSS MOE and created more fiscal stability for county IHSS costs, not because of the existence of a potential IHSS collective bargaining penalty. There is no reason to enact a new penalty that is significantly more punitive than the initial penalty when all of this progress has occurred.

We thank the Legislature and the Administration for support of our joint budget proposal that we are sponsoring with the IHSS provider unions to maintain the current IHSS collective bargaining funding mechanisms and prevent the changes that would have occurred on January 1, 2022. It is these fiscal tools that have been the driver of the increased number of agreements to increase wages and benefits for IHSS providers, not any sort of threat of an IHSS fiscal penalty. The way to encourage and support future agreements is this coalition budget proposal to provide a positive fiscal incentive rather than a punitive approach.

For all of the above reasons, counties are strongly opposed to the proposal to enact an IHSS fiscal penalty on counties. Please feel free to reach out to any of our organizations with questions or if you need additional information. Thank you for your consideration.

Sincerely,



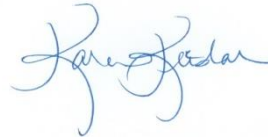
Justin Garrett  
CSAC  
[igarrett@counties.org](mailto:igarrett@counties.org)



Kelly Brooks-Lindsey  
UCC  
[kbl@hbeadvocacy.com](mailto:kbl@hbeadvocacy.com)



Sarah Dukett  
RCRC  
[sdukett@rcrcnet.org](mailto:sdukett@rcrcnet.org)



Karen Keeslar  
CAPA  
[karen@keeslar.net](mailto:karen@keeslar.net)



Cathy Senderling-McDonald  
CWDA  
[csend@cwda.org](mailto:csend@cwda.org)

cc: Honorable Members, Senate Budget and Fiscal Review Committee  
Honorable Members, Assembly Budget Committee  
Renita Polk, Consultant, Senate Budget and Fiscal Review Committee  
Nicole Vazquez, Consultant, Assembly Budget Committee  
Mareva Brown, Office of the Senate President pro Tempore  
Gail Gronert, Office of the Assembly Speaker  
Anthony Archie, Senate Republican Fiscal Office  
Eric Dietz, Assembly Republican Fiscal Office  
Ginni Bella Navarre, Legislative Analyst's Office  
Kim Johnson, Director, Department of Social Services  
Keely Bosler, Director, Department of Finance  
Adam Dorsey, Department of Finance  
Tam Ma, Deputy Legislative Secretary, Office of Governor Newsom