



**LEGISLATION AND PUBLIC POLICY
COMMITTEE (LPPC)
MEETING NOTICE/AGENDA**

Posted at www.scdd.ca.gov

DATE: April 4, 2013

TIME: 10:30 a.m. – 3:00 p.m.

LOCATION: State Council on Developmental Disabilities
1507 21st Street, Suite 210
Sacramento, CA 95811
916/322-8481

Teleconference Site:

**Area Board 7
2580 North First Street, Suite 240
San Jose, CA 95131**

Pursuant to Government Code Sections 11123.1 and 11125(f), individuals with disabilities who require accessible alternative formats of the agenda and related meeting materials and/or auxiliary aids/services to participate in the meeting, should contact Michael Brett at 916/322-8481 or michael.brett@scdd.ca.gov by 5p on March 5, 2012.

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1. CALL TO ORDER	R. Ceragioli	
2. ESTABLISHMENT OF QUORUM	R. Ceragioli	
3. WELCOME AND INTRODUCTIONS	R. Ceragioli	
4. APPROVAL OF MARCH 7, 2013 MINUTES	R. Ceragioli	3

5. PUBLIC COMMENTS

*This item is for members of the public only to provide comments and/or present information to the Committee on matters **not** on the agenda. Each person will be afforded up to three minutes to speak. Written requests, if any, will be considered first. The Committee will provide a public comment period, not to exceed a total of seven minutes, for public comment prior to action on each agenda item.*

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8. MEETING SCHEDULE

R. Ceragioli

9. ADJOURNMENT

R. Ceragioli

Agenda Item 4.

DRAFT

Legislative & Public Policy (LPPC) Committee Minutes

March 12, 2013

Members Present

Ray Ceragioli, Chair
Jennifer Allen
Tho Vinh Banh
Dan Boomer
Connie Lapin
April Lopez
Leroy Shipp

Members Absent

David Mulvaney
Barbara Wheeler
David Forderer

Others Present

Margaret Schipp
Leslie Morrison
Greg DeGiere
Michael Brett
Karim Alipourfard
Mark Polit
Holly Bins

1. CALL TO ORDER

Ray Ceragioli, Chairperson, called the meeting to order at 10:31 AM.

2. ESTABLISHMENT OF A QUORUM

A quorum was established.

3. INTRODUCTIONS AND ANNOUNCEMENTS

Members introduced themselves and announcements were made.

4. APPROVAL OF 10/17/12 MINUTES

It was moved, seconded (Lopez/Allen), and carried to approve the LPPC minutes as written.

5. PUBLIC COMMENTS

Connie Lapin distributed a report by the UN Human Right Council documenting instances of torture and other cruel, inhuman or degrading

treatment or punishment in different countries. Among the situations cited in the US, it cited the use of electric shock at Judge Rotenberg Center in MA.

Lapin expressed concern on the pending US Department of Labor Regulations concerning overtime and minimum wage for household workers. Some disability organization are concerned that having to pay overtime to workers in supported living would lead to disruptions in services. The committee agreed to discuss the DOL proposed regulations at the April LPPC meeting.

6. LEGISLATIVE ISSUES

A. State Legislative Issues

i. Employment Bills

AB 1041 (Chesbro) Employment First Policy - Concern was raised that future legislation address responsibility of public education to prepare students for work from an early age. Lopez moved, Shipp seconded to recommend support of Council Sponsored AB 1041 (Chesbro). Motion adopted unanimously.

SB 577 (Pavley), Employment Pilot Project. Discussed that the bill was only for employment of people with autism. Lapin moved, Boomer seconded to support SB 577 in principle, IF it is amended to address employment for people with all developmental disabilities, not just autism. Motion adopted with 6 yes, 0 no, 1 abstain.

SB 349 (Walters), Time Limit on Sheltered Work. Committee discussed that the legislation is trying to do the right thing by moving services towards supporting people in integrated individualized employment. However, there was concern that the method used in the bill may not be practical. Boomer moved, Shipp seconded a motion that the Council takes a watch position. Motion adopted unanimously. The Committee directed Council staff to work with the author on amending the bill to address the Committee's concerns.

Autism only legislation - Shipp moved, Lapin seconded that as a matter of policy, legislation should not create services within the Lanterman Act for any one developmental disability at the exclusion of other developmental disabilities. Motion adopted unanimously.

- ii. **SB 946 Implementation Update.** Anastasia Bacigalupo briefed the Committee on legislation introduced on behavioral health treatments for people with autism.

SB 126 (Steinberg), Extend Sunset of AB 946 to 2019. Moved and seconded to support SB 126. Motion adopted unanimously.
[[WHO MOVED/SEC??]]

Trailer Bill Language on Regional Center Financial Responsibility for Co-pays and Deductibles. The proposed TBL would *allow* regional centers to pay co-pays, and requires regional centers to means test the reimbursement of co-pays. The TBL also forbids regional centers from paying deductibles. Lapin moved, Shipp seconded that the Council advocate to amend the proposed TBL to *require* regional centers to pay insurance co-pays and deductibles without means testing; and where “parents” are mentioned in the TBL, also include guardians, conservators, caregivers, and authorized representatives. Motion adopted with 6 yes and one abstain.

SB 163 (Rubio), Regional Center Financial Responsibility for Co-pays and Deductibles. Staff reported that the bill currently has no author, since Senator Rubio resigned. Staff to the Autism Select Committee is seeking another author and a sponsor for the legislation. The bill currently has only spot language, but if we are sponsors we have greater control over the language developed. This bill is offered as an alternative to the TBL discussed earlier. Lapin moved and Lopez seconded that the Council explore sponsoring the Legislation to achieve the policy goals stated for the TBL. The motion was adopted unanimously.

- iii. **Equity and Diversity Legislation (Autism Task Force).** Mark Polit reviewed legislation introduced as a result of the Equity and Diversity Taskforce of the Senate Select Committee on Autism: AB 1232 (Perez) on modifications to the quality assessment system; SB 158 (Correa) best practices demonstration; SB 208 (Lara) regional center RFPs; SB 319 (Price) DDS reports on progress; SB 321 (Price) regional center performance contracts; SB 367 (Block) regional center annual strategic plans; and SB 555 (Correa) IPPs and IFSPs.

SB 155 (Correa) – Tho Vinh Banh from Disability Rights California presented on SB 155 and reported that DRC is sponsoring that

legislation which would require IPPs and IFSPs to consider the cultural and linguistic needs of the consumer and family, in order to provide services in a linguistically and culturally appropriate manner. Lapin was concerned there were no sanctions in the bill for non-compliance. The committee voted unanimously to recommend a support position on SB 155. (MOVED? SECONDED?)

The committee decided to take more time to review the remaining bills at the next LPPC on April 4.

- iv. **Self-Determination Legislation (SB 468).** Connie Lapin presented on SB 468 (Emmerson and Beall) which is sponsored by Autism Society of LA and DRC. She indicated that the bill is bare bones now and will be filled out. She reported broad support for the legislation. Lapin stated that the self-determination program cap of 2500 individuals would be amended to allow open enrollment in the program after 3 years. Lapin clarified that the program will allow individuals to hire their own workers and purchase non-vendored services. A recommendation was made to include the requirement in the legislation that all regional centers shall offer the program. Boomer moved and Shipp seconded to recommend support for SB 468. The motion was adopted unanimously. The committee directed Council staff to work with the sponsors and authors on developing content of the legislation.

- v. **Housing Legislation - Greg DeGier** from the Arc of California presented on the coalition work on making accessible and affordable housing more available. Coalition members include the Staet Independent Living Council, the Arc, California Foundation of Independent Living Centers, SCDD, DRC, Californians for Disability Rights and Chance Inc. The committee asked to be presented with more background on state and federal housing funding at the next meeting of the LPPC.

Banh reported on DRC sponsored housing legislation, SB 550 (Jackson). The bill would require that state requirements for accessible housing be elevated to be consistent with federal requirements and be increased from 5% accessible units to 10%. Banh moved and Lapin seconded to recommend support for SB 550. The motion was adopted unanimously.

- vi. **Abuse and Neglect Legislation - Leslie Morrison**, Director of the Disability Rights California (DRC) Investigations Unit, presented on

two pieces of legislation sponsored by DRC, SB 651 (Pavley and Leno) and SB 961 (Levine). Banh moved and Shipp seconded to recommend a support position on SB 651. Motion adopted unanimously. Boomer moved and Shipp seconded to recommend support for SB 961. Motion adopted unanimously. Morrison also presented on SB 602 (Yamada). Boomer moved and Lapin seconded to recommend support for SB 602. Motion adopted unanimously.

vii. **Other Legislation** – This agenda item was not discussed because of lack of time.

B. **State Budget Update** – This agenda item was not discussed.

C. **Area Board Legislative Update** – This agenda item was not discussed

7. FEDERAL BUDGET/LEGISLATIVE ISSUES

This agenda item was not discussed.

8. ADJOURNMENT

The meeting was adjourned at 3:00 PM.

Agenda Item 6.A.i

Equity and Diversity Legislation

AB1232 (V. Manuel Pérez D) Developmental services: quality assessment system.

Introduced: 2/22/2013

Status: 2/25/2013-Read first time.

Location: 2/22/2013-A. PRINT

Summary: Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is authorized to contract with regional centers to provide services and supports to individuals with developmental disabilities. Existing law requires the department to implement a quality assessment system, as prescribed, to enable the department to assess the performance of the state's developmental services system and to improve services for consumers. Under existing law, the department is required, in consultation with stakeholders, to identify a valid and reliable quality assurance instrument that assesses consumer and family satisfaction, provision of services, and personal outcomes, and, among other things, includes outcome-based measures such as health, safety, and well-being. Under existing law, the department is required to contract with an independent agency or organization that is, in part, experienced in designing valid quality assurance instruments, to implement the system. This bill would require the quality assurance instrument to assess the provision of services in a linguistically and culturally competent manner and include an outcome-based measure on issues of equity and diversity. This bill would require the independent agency or organization the department contracts with to be experienced in issues relating to linguistic and cultural competency.

SB158 (Correa D) Autism services: Best practices demonstration program.

Amended: 3/21/2013

Summary: This bill would establish, until January 1, 2019, a demonstration program that would be known as the Regional Center Excellence in Community Autism Partnerships (RE CAP) program to implement measures in underserved communities to promote awareness and reduce the stigma associated with autism or pervasive developmental spectrum disorders, improve the early screening, diagnosis, and assessment of those disorders, and increase access to evidence-based interventions and treatments, as specified. The bill would require the department to contract with a University of California or California State University campus to serve as the coordinating center for the program. The bill would also require the department to define the responsibilities of the coordinating center and to establish criteria for participation in, and guidelines for the implementation of, the program. The bill would require, on or before January 1, 2018, the center, or its designee, to provide information to the appropriate committees of the Legislature, the department, the Governor's office, and participating regional centers information regarding the efficacy and outcomes of the RE CAP program.

SB208 (Lara D) Developmental services: regional center RFPs .

Amended: 3/14/2013

Summary: Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is authorized to contract with regional centers to provide services and supports to individuals with developmental disabilities. The services and supports to be provided to a regional center consumer are contained in an individual program plan (IPP), developed in accordance with prescribed requirements. Existing law authorizes the regional center to, among other things, solicit an individual or agency, by requests for proposals (RFPs) or other means, to provide needed services or supports that are not available to achieve the stated objectives of a consumer's IPP. This bill would establish the Equity and Diversity in Developmental Services Act, and would require a

request for proposals that is prepared by the department or by a regional center and that relates to consumer programs or services and supports to include a section on issues of equity and diversity, as specified.

SB 319 (Price D) Developmental services: regional centers: DDS Report on progress on data compilation requirements.

Introduced: 2/19/2013

Status: 2/20/2013-From printer. May be acted upon on or after March 22.

Location: 2/19/2013-S. PRINT

Summary: Under the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is required to contract with regional centers to provide services and supports to individuals with developmental disabilities. This bill would state that it is the intent of the Legislature to enact legislation to require the department to provide quarterly updates regarding the department's progress in meeting specified data compilation requirements in collaboration with regional centers.

SB 321 (Price D) Developmental services: regional centers: performance contracts.

Introduced: 2/19/2013

Status: 2/20/2013-From printer. May be acted upon on or after March 22.

Location: 2/19/2013-S. PRINT

Summary: Under the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is required to contract with regional centers to provide services and supports to individuals with developmental disabilities. Existing law requires the state to enter into 5-year contracts with the regional centers, subject to the annual appropriation of funds by the Legislature, and requires that the contracts include annual performance objectives, as specified. This bill would, in this regard, require the department to establish performance contract guidelines and measures relating to issues of cultural and linguistic competency.

SB 367 (Block D) Developmental services: regional center annual strategic plans.

Introduced: 2/20/2013

Status: 2/21/2013-From printer. May be acted upon on or after March 23.

Location: 2/20/2013-S. PRINT

Summary: Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is authorized to contract with regional centers to provide support and services to individuals with developmental disabilities. Existing law requires the department, when approving regional center contracts, to ensure that regional center staffing patterns demonstrate that direct service coordination is the highest priority. This bill would state the intent of the Legislature to enact legislation that would provide that the department require regional centers to develop annual strategic plans that address issues of cultural and linguistic competency.

SB 555 (Correa D) Developmental services: individual program plans and individual family service plans.

Introduced: 2/22/2013

Status: 2/25/2013-Read first time.

Location: 2/22/2013-S. PRINT

Summary: This bill would state the intent of the Legislature to enact legislation that would require an IPP or IFSP to consider the needs of the consumer, and his or her family, in order to provide services and supports in a culturally and linguistically appropriate manner.

ASSEMBLY BILL

No. 1232

Introduced by Assembly Member V. Manuel Pérez

February 22, 2013

An act to amend Section 4571 of the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1232, as introduced, V. Manuel Pérez. Developmental services: quality assessment system.

Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is authorized to contract with regional centers to provide services and supports to individuals with developmental disabilities. Existing law requires the department to implement a quality assessment system, as prescribed, to enable the department to assess the performance of the state's developmental services system and to improve services for consumers. Under existing law, the department is required, in consultation with stakeholders, to identify a valid and reliable quality assurance instrument that assesses consumer and family satisfaction, provision of services, and personal outcomes, and, among other things, includes outcome-based measures such as health, safety, and well-being. Under existing law, the department is required to contract with an independent agency or organization that is, in part, experienced in designing valid quality assurance instruments, to implement the system.

This bill would require the quality assurance instrument to assess the provision of services in a linguistically and culturally competent manner and include an outcome-based measure on issues of equity and diversity. This bill would require the independent agency or organization the

department contracts with to be experienced in issues relating to linguistic and cultural competency.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

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

1 SECTION 1. The Legislature finds and declares the following:

2 (a) The Lanterman Developmental Disabilities Services Act
3 requires that regional centers provide services to consumers in a
4 manner that is determined by the individual program plan (IPP)
5 or the individual family service plan (IFSP).

6 (b) The act requires the active participation of the consumer,
7 and his or her family, in the planning and implementation of the
8 IPP and the IFSP.

9 (c) The IPP and the IFSP and all regional center services must
10 be provided in a linguistically and culturally competent manner
11 for the consumer.

12 (d) Existing law requires the State Department of Developmental
13 Services to establish a quality assessment system to provide
14 evaluation and oversight for regional center services.

15 (e) The department has established a contractual relationship
16 with the National Core Indicators to meet these statutory
17 requirements with an annual expenditure of \$3,235,000 for the
18 2012–13 fiscal year.

19 (f) The current quality assessment system does not require
20 evaluation or oversight on issues of equity and diversity to ensure
21 that regional center services are provided in a linguistically and
22 culturally competent manner.

23 SEC. 2. Section 4571 of the Welfare and Institutions Code is
24 amended to read:

25 4571. (a) It is the intent of the Legislature to ensure the
26 well-being of consumers, taking into account their informed and
27 expressed choices. It is further the intent of the Legislature to
28 support the satisfaction and success of consumers through the
29 delivery of quality services and supports. Evaluation of the services
30 that consumers receive is a key aspect to the service system.
31 Utilizing the information that consumers and their families provide
32 about ~~such~~ those services in a reliable and meaningful way is also
33 critical to enable the department to assess the performance of the

1 state's developmental services system and to improve services for
2 consumers in the future. To that end, the State Department of
3 Developmental Services, on or before January 1, 2010, shall
4 implement an improved, unified quality assessment system, in
5 accordance with this section.

6 (b) The department, in consultation with stakeholders, shall
7 identify a valid and reliable quality assurance instrument that
8 ~~includes assessments of~~ *assesses* consumer and family satisfaction,
9 provision of services *in a linguistically and culturally competent*
10 *manner*, and personal outcomes. The instrument shall do all of the
11 following:

12 (1) Provide nationally validated, benchmarked, consistent,
13 reliable, and measurable data for the department's Quality
14 Management System.

15 (2) Enable the department and regional centers to compare the
16 performance of California's developmental services system against
17 other states' developmental services systems and to assess quality
18 and performance among all of the regional centers.

19 (3) Include outcome-based measures such as health, safety,
20 well-being, relationships, interactions with people who do not have
21 a disability, employment, quality of life, integration, choice,
22 service, and consumer satisfaction.

23 (4) *Include outcome-based measures on issues of equity and*
24 *diversity to evaluate the linguistic and cultural competency of*
25 *regional center services that are provided to consumers across*
26 *their lifetime.*

27 (c) To the extent that funding is available, the instrument
28 identified in subdivision (b) may be expanded to collect additional
29 data requested by the State Council on Developmental Disabilities.

30 (d) The department shall contract with an independent agency
31 or organization to implement by January 1, 2010, the quality
32 assurance instrument described in subdivision (b). The contractor
33 shall be experienced in all of the following:

34 (1) Designing valid quality assurance instruments for
35 developmental service systems.

36 (2) Tracking outcome-based measures such as health, safety,
37 well-being, relationships, interactions with people who do not have
38 a disability, employment, quality of life, integration, choice,
39 service, and consumer satisfaction.

40 (3) Developing data systems.

1 (4) Data analysis and report preparation.

2 (5) Assessments of the services received by consumers who are
3 moved from developmental centers to the community, given the
4 Legislature's historic recognition of a special obligation to ensure
5 the well-being of these persons.

6 (6) *Issues related to linguistic and cultural competency.*

7 (e) The department, in consultation with the contractor described
8 in subdivision (d), shall establish the methodology by which the
9 quality assurance instrument shall be administered, including, but
10 not limited to, how often and to whom the quality assurance will
11 be administered, and the design of a stratified, random sample
12 among the entire population of consumers served by regional
13 centers. The contractor shall provide aggregate information for all
14 regional centers and the state as a whole. At the request of a
15 consumer or the family member of a consumer, the survey shall
16 be conducted in the primary language of the consumer or family
17 member surveyed.

18 (f) The department shall contract with the state council to collect
19 data for the quality assurance instrument described in subdivision
20 (b). If, during the data collection process, the state council identifies
21 any suspected violation of the legal, civil, or service rights of a
22 consumer, or if it determines that the health and welfare of a
23 consumer is at risk, that information shall be provided immediately
24 to the regional center providing case management services to the
25 consumer. At the request of the consumer, or family, when
26 appropriate, a copy of the completed survey shall be provided to
27 the regional center providing case management services to improve
28 the consumer's quality of services through the individual planning
29 process.

30 (g) The department, in consultation with stakeholders, shall
31 annually review the data collected from and the findings of the
32 quality assurance instrument described in subdivision (b) and
33 accept recommendations regarding additional or different criteria
34 for the quality assurance instrument in order to assess the
35 performance of the state's developmental services system and
36 improve services for consumers.

37 (h) All reports generated pursuant to this section shall be made
38 publicly available, but shall not contain any personal identifying
39 information about any person assessed.

1 (i) All data collected pursuant to subdivision (c) shall be
2 provided to the state council, but shall contain no personal
3 identifying information about the persons being surveyed.

4 (j) Implementation of this section shall be subject to an annual
5 appropriation of funds in the Budget Act for this purpose.

O

AMENDED IN SENATE MARCH 21, 2013

SENATE BILL

No. 158

**Introduced by Senator Correa
(Coauthor: Senator Beall)**

February 1, 2013

An act to add and repeal Section 4639.8 of the Welfare and Institutions Code, relating to autism services.

LEGISLATIVE COUNSEL'S DIGEST

SB 158, as amended, Correa. Autism services: demonstration program.

The Lanterman Developmental Disabilities Services Act authorizes the State Department of Developmental Services to contract with regional centers to provide services and support to individuals with developmental disabilities, including autism.

~~This bill would declare the intent of the Legislature to enact legislation that would establish, until January 1, 2019, a demonstration program that will provide technical assistance and best practices related to linguistic and cultural competency for autism services that are provided by regional centers to consumers and their families that would be known as the Regional Center Excellence in Community Autism Partnerships (RE CAP) program to implement measures in underserved communities to promote awareness and reduce the stigma associated with autism or pervasive developmental spectrum disorders, improve the early screening, diagnosis, and assessment of those disorders, and increase access to evidence-based interventions and treatments, as specified. The bill would require the department to contract with a University of California or California State University campus to serve as the coordinating center for the program. The bill would also require the~~

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department to define the responsibilities of the coordinating center and to establish criteria for participation in, and guidelines for the implementation of, the program. The bill would require, on or before January 1, 2018, the center, or its designee, to provide information to the appropriate committees of the Legislature, the department, the Governor's office, and participating regional centers information regarding the efficacy and outcomes of the RE CAP program.

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

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

1 SECTION 1. Section 4639.8 is added to the Welfare and
 2 Institutions Code, to read:

3 4639.8. (a) A demonstration program that shall provide
 4 improved services, supports, interventions, and other resources
 5 to assist individuals with autism spectrum disorders (ASD), and
 6 their families, who are regional center consumers and who reside
 7 in underserved communities is hereby established pursuant to this
 8 section.

9 (b) The demonstration program shall be known as the Regional
 10 Center Excellence in Community Autism Partnerships (RE CAP)
 11 program.

12 (c) The department shall contract with a University of California
 13 or California State University campus that shall serve as a
 14 coordinating center to implement the RE CAP program. In
 15 collaboration with the participating regional centers, the
 16 coordinating center shall identify and coordinate the activities
 17 and resources of other participating entities and organizations.

18 (d) The department shall do all of the following:

19 (1) Define the responsibilities of the coordinating center.

20 (2) Establish appropriate criteria and parameters by which
 21 regional centers may participate in the RE CAP program.

22 (3) Establish criteria and parameters by which specific
 23 geographic areas in catchment areas of participating regional
 24 centers shall be designated as underserved communities.

25 (4) Establish guidelines, best practices, and technical assistance
 26 by which regional centers participating in the RE CAP program
 27 shall implement measures in underserved communities to
 28 accomplish any of the following:

1 (A) Promote awareness and reduce the stigma associated with
2 ASD.

3 (B) Improve the early screening for ASD.

4 (C) Improve the diagnosis and assessment of ASD.

5 (D) Increase access to evidence-based interventions and
6 treatments for ASD.

7 (5) Establish indicators and outcome measures that may be
8 utilized to evaluate the efficacy of the RE CAP program.

9 (e) Participation of the regional centers shall be on a voluntary
10 basis or as deemed necessary by the department.

11 (f) (1) Funding for the RE CAP program shall be from existing
12 regional center resources in combination with additional resources
13 provided by foundations, federal funding, and other sources and
14 as allocated by the coordinating center for each of the RE CAP
15 programs. No additional state funds shall be allocated for these
16 purposes.

17 (2) The coordinating center shall implement the demonstration
18 project described in this section only to the extent that adequate
19 funding and resources are made available for the project.

20 (g) On or before January 1, 2018, the coordinating center, or
21 its designee, shall provide information to the appropriate
22 committees of the Legislature, the department, the Governor's
23 office, and participating regional centers regarding the efficacy
24 and outcomes of the RE CAP program.

25 (h) This section shall remain in effect only until January 1, 2019,
26 and as of that date is repealed, unless a later enacted statute, that
27 is enacted before January 1, 2019, deletes or extends that date.

28 ~~SECTION 1. It is the intent of the Legislature to enact~~
29 ~~legislation that would establish a demonstration program that will~~
30 ~~provide technical assistance and best practices related to linguistic~~
31 ~~and cultural competency for autism services that are provided by~~
32 ~~regional centers to consumers and their families.~~

O

Introduced by Senator Lara

February 8, 2013

An act to add Section 4648.11 to the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

SB 208, as amended, Lara. Developmental services: ~~regional centers:~~ *request for proposals.*

Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is authorized to contract with regional centers to provide services and supports to individuals with developmental disabilities. The services and supports to be provided to a regional center consumer are contained in an individual program plan (IPP), developed in accordance with prescribed requirements. Existing law authorizes the regional center to, among other things, solicit an individual or agency, by requests for proposals (RFPs) or other means, to provide needed services or supports that are not available to achieve the stated objectives of a consumer's IPP.

This bill would establish the Equity and Diversity in Developmental Services Act, and would require a request for proposals that is prepared by the department or by a regional center and that relates to consumer programs or services and supports to include a section on issues of equity and diversity, as specified.

~~This bill would state the intent of the Legislature to enact legislation to require that RFPs that are created by regional centers include a section~~

to evaluate the applicant's ability to provide services and supports that are culturally and linguistically competent.

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

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

1 SECTION 1. *The Legislature hereby finds and declares the*
2 *following:*

3 (a) *Recent and emerging evidence in the number of children*
4 *diagnosed with autism spectrum disorders (ASDs) in California*
5 *and in the United States indicates that ASDs have reached a level*
6 *of public health crisis that must be addressed.*

7 (b) *The State Department of Developmental Services and the*
8 *regional center system provide treatment, habilitation, and other*
9 *services to Californians with developmental disabilities so that*
10 *they may lead more independent, productive, and integrated lives.*

11 (c) *California, where diverse communities account for about*
12 *60 percent of the population, is now a "majority minority" state.*

13 (d) *The Lanterman Developmental Disabilities Services Act*
14 *requires that a person who receives services from a regional center*
15 *must have programs, services, and supports that are "person*
16 *centered" and that are based on the specific assessment and needs*
17 *of each consumer.*

18 (e) *Therefore, services provided to regional center consumers*
19 *should be provided in a linguistically and culturally competent*
20 *manner that promotes equity and diversity for all Californians.*

21 SEC. 2. *Section 4648.11 is added to the Welfare and Institutions*
22 *Code, to read:*

23 4648.11. (a) *This section shall be known and may be cited as*
24 *the Equity and Diversity in Developmental Services Act.*

25 (b) *A request for proposals that is prepared by the department*
26 *or by a regional center and that relates to consumer programs or*
27 *services and supports shall include a section on issues of equity*
28 *and diversity.*

29 (c) *The section on equity and diversity shall request, but not be*
30 *limited to, all of the following:*

31 (1) *A statement outlining the applicant's plan to serve diverse*
32 *populations.*

1 (2) *Examples of the applicant's commitment to addressing the*
2 *needs of diverse populations.*

3 (3) *Any additional information that the applicant deems relevant*
4 *to issues of equity and diversity, including hiring bilingual staff,*
5 *location of the program site, outreach strategies for underserved*
6 *communities, and training and other materials in various*
7 *languages and that are provided in a manner that is linguistically*
8 *and culturally competent.*

9 (4) *Nothing in this section shall alter contracts entered into on*
10 *or before January 1, 2014.*

11 ~~SECTION 1. It is the intent of the Legislature to enact~~
12 ~~legislation to require that requests for proposals that are created~~
13 ~~by regional centers include a section to evaluate the applicant's~~
14 ~~ability to provide services and supports that are culturally and~~
15 ~~linguistically competent.~~

O

Introduced by Senator Price

February 19, 2013

An act to amend Section 4629 of the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

SB 321, as introduced, Price. Developmental services: regional centers: performance contracts.

Under the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is required to contract with regional centers to provide services and supports to individuals with developmental disabilities. Existing law requires the state to enter into 5-year contracts with the regional centers, subject to the annual appropriation of funds by the Legislature, and requires that the contracts include annual performance objectives, as specified.

This bill would, in this regard, require the department to establish performance contract guidelines and measures relating to issues of cultural and linguistic competency.

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

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

- 1 SECTION 1. Section 4629 of the Welfare and Institutions Code
- 2 is amended to read:
- 3 4629. (a) The state shall enter into five-year contracts with
- 4 regional centers, subject to the annual appropriation of funds by
- 5 the Legislature.

- 1 (b) The contracts shall include a provision requiring each
2 regional center to render services in accordance with applicable
3 provision of state laws and regulations.
- 4 (c) (1) The contracts shall include annual performance
5 objectives that shall do both of the following:
- 6 (A) Be specific, measurable, and designed to do all of the
7 following:
- 8 (i) Assist consumers to achieve life quality outcomes.
9 (ii) Achieve meaningful progress above the current baselines.
10 (iii) Develop services and supports identified as necessary to
11 meet identified needs.
- 12 (B) Be developed through a public process as described in the
13 department's guidelines that includes, but is not limited to, all of
14 the following:
- 15 (i) Providing information, in an understandable form, to the
16 community about regional center services and supports, including
17 budget information and baseline data on services and supports and
18 regional center operations.
- 19 (ii) Conducting a public meeting where participants can provide
20 input on performance objectives and using focus groups or surveys
21 to collect information from the community.
- 22 (iii) Circulating a draft of the performance objectives to the
23 community for input prior to presentation at a regional center board
24 meeting where additional public input will be taken and considered
25 before adoption of the objectives.
- 26 (2) In addition to the performance objectives developed pursuant
27 to this section, the department may specify in the performance
28 contract additional areas of service and support that require
29 development or enhancement by the regional center. In determining
30 those areas, the department shall consider public comments from
31 individuals and organizations within the regional center catchment
32 area, the distribution of services and supports within the regional
33 center catchment area, and review how the availability of services
34 and supports in the regional area catchment area compares with
35 other regional center catchment areas.
- 36 (3) *In addition to the performance objectives developed pursuant*
37 *to this section, the department shall establish performance contract*
38 *guidelines and measures relating to issues of cultural and linguistic*
39 *competency.*

1 (d) Each contract with a regional center shall specify steps to
2 be taken to ensure contract compliance, including, but not limited
3 to, all of the following:

4 (1) Incentives that encourage regional centers to meet or exceed
5 performance standards.

6 (2) Levels of probationary status for regional centers that do
7 not meet, or are at risk of not meeting, performance standards. The
8 department shall require that corrective action be taken by any
9 regional center which is placed on probation. Corrective action
10 may include, but is not limited to, mandated consultation with
11 designated representatives of the Association of Regional Center
12 Agencies or a management team designated by the department, or
13 both. The department shall establish the specific timeline for the
14 implementation of corrective action and monitor its
15 implementation. When a regional center is placed on probation,
16 the department shall provide the appropriate area board with a
17 copy of the correction plan, timeline, and any other action taken
18 by the department relating to the probationary status of the regional
19 center.

20 (e) In order to evaluate the regional center's compliance with
21 its contract performance objectives and legal obligations related
22 to those objectives, the department shall do both of the following:

23 (1) Annually assess each regional center's achievement of its
24 previous year's objectives and make the assessment, including
25 baseline data and performance objectives of the individual regional
26 centers, available to the public. The department may make a special
27 commendation of the regional centers that have best engaged the
28 community in the development of contract performance objectives
29 and have made the most meaningful progress in meeting or
30 exceeding contract performance objectives.

31 (2) Monitor the activities of the regional center to ensure
32 compliance with the provisions of its contracts, including, but not
33 limited to, reviewing all of the following:

34 (A) The regional center's public process for compliance with
35 the procedures-sets set forth in paragraph (2) of subdivision (c).

36 (B) Each regional center's performance objectives for
37 compliance with the criteria set forth in paragraph (1) of
38 subdivision (c).

1 (C) Each regional center's performance objectives for
2 compliance with the guidelines and measures established by the
3 department pursuant to paragraph (3) of subdivision (c).

4 ~~(C)~~

5 (D) Any public comments on regional center performance
6 objectives sent to the department or to the regional centers, and
7 soliciting public input on the public process and final performance
8 standards.

9 (f) The renewal of each contract shall be contingent upon
10 compliance with the contract, including, but not limited to, the
11 performance objectives, as determined through the department's
12 evaluation.

O

AGENDA ITEM 6.A.ii

DETAIL SHEET

BILL NUMBER/ISSUE: Accessible Affordable Housing

SUMMARY: Will the Council support affordable housing legislation such as SB 391 (DeSaulnier) and SB 1 (Steinberg), if they are amended to also provide for accessibility in a portion of units developed?

BACKGROUND: Lack of availability of accessible housing and of affordable housing is a major barrier to community living and supported and independent living for people with developmental disabilities. This leads to unnecessary institutionalization and use of licensed group living situations.

State and Federal funding is used to support the development of affordable housing. Both state and federal regulations require a percentage of units be accessible. A coalition of stakeholders are advocating for increasing state accessibility requirements to match the federal requirements, and increasing the percentage of required accessible units from 5% to 10%. The coalition also supports setting some funding aside for rehabilitation of existing non-accessible units to meet accessibility requirements. The coalition includes the Arc, ARCA, CFILC, DRC, SCDD, and Californians for Disability Rights.

ANALYSIS/DISCUSSION: The introduction of affordable housing legislation and development of funding streams to support that offers an opportunity to improve the availability of accessible and affordable housing for people with developmental disabilities.

COUNCIL STATE PLAN GOAL: Affordable and Accessible housing units are developed in local communities to expand housing options for individuals with developmental disabilities.

PRIOR COUNCIL ACTIVITY: LPPC voted to support SB 550 (Jackson), sponsored by DRC, that would require accessibility requirements for state financed affordable housing be elevated to be consistent with federal requirements. Additionally, the minimum percentage of required accessible units be increased from 5% to 10%.

RECOMMENDATION(S): Support SB 391 and SB 1, if amended to include provisions for accessible housing consistent with the coalition position.

ATTACHMENT(S): Coalition letter on accessible housing; SB 391 (Desaulnier); Leg Counsel Summary of SB 1 (Steinberg); SB 550 (Jackson)

PREPARED: Mark Polit, March 22, 2013



CALIFORNIANS FOR DISABILITY RIGHTS, INC.
Together...for access. for justice. for equality. for independence

Housing and People with Disabilities

Problem Statement

As organizations representing people with disabilities and their families, affordable housing is very high on our priority lists.

People with disabilities tend to have low incomes; according to the federal Department of Labor, only 20.5% of adults with disabilities are in the workforce, as compared to 69.1% for people without disabilities. Along with other low-income Californians, people with disabilities, including seniors, have great difficulty finding affordable housing.

Many people with disabilities face another daunting challenge: they need housing which is accessible to them, meeting their disability-related needs. As difficult as it is to find an affordable place to live, the difficulty is multiplied if someone needs a unit with no stairs, or a bathroom which has the right layout for somebody who uses a scooter or wheelchair, or any number of other accessible features. Even in some newly-built structures with units which are supposed to be somewhat accessible under general construction standards in California, people in power wheelchairs can't get in the front door, can't reach most of the apartments or rooms if they can get in, can't turn around, and/or can't use the bathrooms if they can reach them.

With the increasing number of people with disabilities caused by aging, civilian violence, wars, the autism and fetal alcoholism spectrum disorder epidemics, the need can only be expected to grow. People who want to stay at home or return to home rather than live in nursing homes or other institutions – including veterans and seniors - need more accessibility.

In California, three different sets of requirements about accessible housing built exacerbate the problem even further: the Federal Fair Housing Act Amendments (FHAA) covering some, but not all units built since 1991; the California Building Code Standards, which have some improvements over FHAA standards; and the federal Uniform Federal Accessibility Standards (UFAS). Even well-intentioned developers can be confused by the conflicting requirements, which are not producing sufficient accessible housing. The only standards that provide truly accessible units are the UFAS, which require 5% of units to be fully accessible for people with mobility disabilities and 2% to be fully accessible for people with visual/hearing disabilities. But right now, UFAS standards apply only to units built with federal funding.

Possible Solutions

To mitigate these issues, we offer some possible fixes as amendments to recently introduced and proposed housing bills:

1. 10% of all units funded pursuant to the bills will meet the Uniform Federal Accessibility Standards (UFAS);
2. There will be incentives, possibly including things such as reduced parking requirements, bonus points in applications for funding, or expedited local permit processing, for additional units that meet UFAS standards beyond the 10%;
3. A portion of the funds will be set aside to be used to fund rehabilitation and retrofit to make existing rental residences more accessible, similar to previous successful programs that no longer have funding; and
4. The bills will add findings and intent language, comparable to the existing language, on the unmet and increasing housing needs of people with disabilities including disabilities caused by aging.

February 14, 2013

Introduced by Senator DeSaulnier

(Principal coauthors: Assembly Members Atkins and Bocanegra)

(Coauthors: Senators Correa, Hill, Leno, Lieu, and Pavley)

(Coauthors: Assembly Members Ammiano, Bloom, Bonilla, Gordon, Mullin, Quirk-Silva, and Torres)

February 20, 2013

An act to add Section 27388.1 to the Government Code, and to add Chapter 2.5 (commencing with Section 50470) to Part 2 of Division 31 of the Health and Safety Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 391, as introduced, DeSaulnier. California Homes and Jobs Act of 2013.

Under existing law, there are programs providing assistance for, among other things, emergency housing, multifamily housing, farmworker housing, home ownership for very low and low-income households, and downpayment assistance for first-time homebuyers. Existing law also authorizes the issuance of bonds in specified amounts pursuant to the State General Obligation Bond Law. Existing law requires that proceeds from the sale of these bonds be used to finance various existing housing programs, capital outlay related to infill development, brownfield cleanup that promotes infill development, and housing-related parks.

This bill would enact the California Homes and Jobs Act of 2013. The bill would make legislative findings and declarations relating to the need for establishing permanent, ongoing sources of funding dedicated to affordable housing development. The bill would impose a fee, except as provided, of \$75 to be paid at the time of the recording of every real estate instrument, paper, or notice required or permitted

by law to be recorded. By imposing new duties on counties with respect to the imposition of the recording fee, the bill would create a state-mandated local program. The bill would require that revenues from this fee be sent quarterly to the Department of Housing and Community Development for deposit in the California Homes and Jobs Trust Fund, which the bill would create within the State Treasury. The bill would provide that moneys in the fund may be expended for supporting affordable housing, administering housing programs, and the cost of periodic audits, as specified. The bill would impose certain auditing and reporting requirements.

This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

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 no reimbursement is required by this act for a specified reason.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. This act shall be known as the California Homes
2 and Jobs Act of 2013.

3 SEC. 2. The Legislature finds and declares that having a healthy
4 housing market that provides an adequate supply of homes
5 affordable to Californians at all income levels is critical to the
6 economic prosperity and quality of life in the state. The Legislature
7 further finds and declares all of the following:

8 (a) Funding approved by the state's voters in 2002 and 2006,
9 as of June 2011, has financed the construction, rehabilitation, and
10 preservation of over 11,600 shelter spaces and 57,220 affordable
11 apartments, including 2,500 supportive homes for people
12 experiencing homelessness. In addition, these funds have helped
13 57,290 families become or remain homeowners. Nearly all of the
14 voter-approved funding for affordable housing was awarded by
15 the beginning of 2012.

1 (b) The requirement in the Community Redevelopment Law
2 that redevelopment agencies set aside 20 percent of tax increment
3 for affordable housing generated roughly one billion dollars
4 (\$1,000,000,000) per year. With the elimination of redevelopment
5 agencies, this funding stream has disappeared.

6 (c) California has 12 percent of the United States population
7 but 21.4 percent of its homeless population. Seventy-three percent
8 of people experiencing homelessness in California fell into it
9 because they could not afford a place to live. Sixty-two percent of
10 homeless Californians are unsheltered, 14 percent are veterans,
11 and 20 percent are families.

12 (d) Furthermore, 4 of the top 10 metropolitan areas in the
13 country for homeless are in the following metropolitan areas in
14 California: San Jose-Sunnyvale-Santa Clara, Los Angeles-Long
15 Beach-Santa Ana, Fresno, and Stockton.

16 (e) California continues to have the second lowest
17 homeownership rate in the nation, and minimum wage earners
18 have to work 120 hours per week to afford the average
19 two-bedroom apartment.

20 (f) Millions of Californians are affected by the state's chronic
21 housing shortage, including seniors, veterans, people experiencing
22 chronic homelessness, working families, people with mental,
23 physical, or developmental disabilities, agricultural workers, people
24 exiting jails, prisons, and other state institutions, survivors of
25 domestic violence, and former foster and transition-aged youth.

26 (g) While the current credit and foreclosure crisis has resulted
27 in reductions in home prices in some areas, it has increased pressure
28 on the rental housing market and slowed new housing production
29 of all types, exacerbating the mismatch between the ever increasing
30 number of households that need housing they can afford and the
31 supply.

32 (h) California's workforce continues to experience longer
33 commute times as persons in the workforce seek affordable housing
34 outside the areas in which they work. If California is unable to
35 support the construction of affordable housing in these areas,
36 congestion problems will strain the state's transportation system
37 and exacerbate greenhouse gas emissions.

38 (i) Many economists agree that the state's higher than average
39 unemployment rate is due in large part to massive shrinkage in the
40 construction industry from 2005 to 2009, including losses of nearly

1 700,000 construction-related jobs, a 60-percent decline in
2 construction spending, and an 83-percent reduction in residential
3 permits. Restoration of a healthy construction sector will
4 significantly reduce the state's unemployment rate.

5 (j) The lack of sufficient housing impedes economic growth
6 and development by making it difficult for California employers
7 to attract and retain employees.

8 (k) To keep pace with continuing demand, the state should
9 identify and establish a permanent, ongoing source or sources of
10 funding dedicated to affordable housing development. Without a
11 reliable source of funding for housing affordable to the state's
12 workforce and most vulnerable residents, the state and its local
13 and private housing development partners will not be able to
14 continue increasing the supply of housing after existing housing
15 bond resources are depleted.

16 (l) The investment will leverage billions of dollars in private
17 investment, lessen demands on law enforcement and dwindling
18 health care resources as fewer people are forced to live on the
19 streets or in dangerous substandard buildings, and increase
20 businesses' ability to attract and retain skilled workers.

21 (m) In order to promote housing and homeownership
22 opportunities, the recording fee imposed by this act should not be
23 applied to any recordings made in connection with a sale of real
24 property. Purchasing housing is likely the largest purchase made
25 by Californians, and it is the intent of this act not to increase
26 transaction costs associated with these transfers.

27 SEC. 3. Section 27388.1 is added to the Government Code, to
28 read:

29 27388.1. (a) (1) Except as provided in paragraph (2), in
30 addition to any other recording fees specified in this code, a fee
31 of seventy-five dollars (\$75) shall be paid at the time of recording
32 of every real estate instrument, paper, or notice required or
33 permitted by law to be recorded except those expressly exempted
34 from payment of recording fees. "Real estate instrument" includes,
35 but is not limited to, the following documents: deed, grant deed,
36 trustee's deed, deed of trust, reconveyance, quit claim deed,
37 fictitious deed of trust, assignment of deed of trust, request for
38 notice of default, abstract of judgment, subordination agreement,
39 declaration of homestead, abandonment of homestead, notice of
40 default, release or discharge, easement, notice of trustee sale, notice

1 of completion, UCC financing statement, mechanic’s lien, maps,
2 and covenants, conditions, and restrictions.

3 (2) The fee described in paragraph (1) shall not be imposed on
4 any real estate instrument, paper, or notice recorded in connection
5 with a transfer subject to the imposition of a documentary transfer
6 tax as defined in Section 11911 of the Revenue and Taxation Code.

7 (b) The fees, after deduction of any actual and necessary
8 administrative costs incurred by the county recorder in carrying
9 out this section, shall be sent quarterly to the Department of
10 Housing and Community Development for deposit in the California
11 Homes and Jobs Trust Fund established by Section 50471 of the
12 Health and Safety Code, to be expended for the purposes set forth
13 in that section. In addition, the county shall pay to the Department
14 of Housing and Community Development interest, at the legal
15 rate, on any funds not paid to the Controller within 30 days of the
16 end of a quarter.

17 SEC. 4. Chapter 2.5 (commencing with Section 50470) is added
18 to Part 2 of Division 31 of the Health and Safety Code, to read:

19 CHAPTER 2.5. CALIFORNIA HOMES AND JOBS TRUST FUND

20 Article 1. General Provisions

21
22
23
24 50470. This chapter shall be known, and may be cited, as the
25 California Homes and Jobs Act of 2013.

26 50471. (a) There is hereby created in the State Treasury the
27 California Homes and Jobs Trust Fund. All interest or other
28 increments resulting from the investment of moneys in the fund
29 shall be deposited in the fund, notwithstanding Section 16305.7
30 of the Government Code. Moneys in the California Homes and
31 Jobs Trust Fund shall not be subject to transfer to any other fund
32 pursuant to any provision of Part 2 (commencing with Section
33 16300) of Division 4 of Title 2 of the Government Code, except
34 to the Surplus Money Investment Fund. Upon appropriation by
35 the Legislature, moneys in the fund may be expended for the
36 following purposes:

37 (1) Supporting the development, acquisition, rehabilitation, and
38 preservation of housing affordable to low- and moderate-income
39 households, including, but not limited to, emergency shelters;
40 transitional and permanent rental housing, including necessary

1 service and operating subsidies; foreclosure mitigation; and
2 homeownership opportunities.

3 (2) Administering housing programs that receive an
4 appropriation from the fund. Moneys expended for this purpose
5 shall not exceed 5 percent of the moneys in the fund.

6 (3) The cost of periodic audits required by Section 50475.

7 (b) Both of the following shall be paid and deposited in the
8 fund:

9 (1) Any moneys appropriated and made available by the
10 Legislature for purposes of the fund.

11 (2) Any other moneys that may be made available to the
12 department for the purposes of the fund from any other source or
13 sources.

14

15 Article 2. Audits and Reporting

16

17 50475. The Bureau of State Audits shall conduct periodic audits
18 to ensure that the annual allocation to individual programs is
19 awarded by the department in a timely fashion consistent with the
20 requirements of this chapter. The first audit shall be conducted no
21 later than 24 months from the effective date of this section.

22 50476. In its annual report to the Legislature pursuant to
23 Section 50408, the department shall report how funds that were
24 made available pursuant to this chapter and allocated in the prior
25 year were expended. The department shall make the report
26 available to the public on its Internet Web site.

27 SEC. 5. No reimbursement is required by this act pursuant to
28 Section 6 of Article XIIB of the California Constitution because
29 a local agency or school district has the authority to levy service
30 charges, fees, or assessments sufficient to pay for the program or
31 level of service mandated by this act, within the meaning of Section
32 17556 of the Government Code.

O

Introduced by Senator Steinberg

December 3, 2012

An act to add Part 1.86 (commencing with Section 34191.10) to Division 24 of the Health and Safety Code, and to amend Section 21094.5 of the Public Resources Code, relating to economic development, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1, as introduced, Steinberg. Sustainable Communities Investment Authority.

The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities to address the effects of blight, as defined. Existing law dissolved redevelopment agencies and community development agencies, as of February 1, 2012, and provides for the designation of successor agencies.

Existing law provides for various economic development programs that foster community sustainability and community and economic development initiatives throughout the state.

This bill would authorize certain public entities of a Sustainable Communities Investment Area, as described, to form a Sustainable Communities Investment Authority (authority) to carry out the Community Redevelopment Law in a specified manner. The bill would require the authority to adopt a Sustainable Communities Investment Plan for a Sustainable Communities Investment Area and authorize the authority to include in that plan a provision for the receipt of tax increment funds provided that certain economic development and planning requirements are met. The bill would authorize the legislative body of a city or county forming an authority to dedicate any portion of its net available revenue, as defined, to the authority through its

Sustainable Communities Investment Plan. The bill would require the authority to contract for an independent financial and performance audit every 5 years.

The bill would establish prequalification requirements for entities that will receive more than \$1,000,000 from the Sustainable Communities Investment Authority and would require the Department of Industrial Relations to monitor and enforce compliance with prevailing wage requirements for specified projects within a Sustainable Communities Investment Area. The bill would deposit moneys received by the department from developer charges related to the costs of monitoring and enforcement in the State Public Works Enforcement Fund. By depositing a new source of revenue in the State Public Works Enforcement Fund, a continuously appropriated special fund, the bill would make an appropriation.

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

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

1 SECTION 1. Part 1.86 (commencing with Section 34191.10)
2 is added to Division 24 of the Health and Safety Code, to read:

3
4 PART 1.86. SUSTAINABLE COMMUNITIES INVESTMENT
5 PROGRAM

6
7 CHAPTER 1. GENERAL PROVISIONS

8
9 34191.10. (a) The Legislature finds and declares that better
10 economic development patterns in California can contribute to
11 greater economic growth by creating good jobs, reducing commuter
12 times for employees, reducing the costs of public infrastructure,
13 and reducing energy consumption. Better development patterns
14 may also result in increased options in the type of housing
15 available, more affordable housing, and a reduction in a
16 household's combined housing and transportation costs.

17 (b) The construction industry has been one of the sectors hardest
18 hit by the economic downturn of recent years. Creating incentives
19 for construction can help restore construction and permanent jobs,
20 which are essential for a restoration of prosperity.

Introduced by Senator JacksonFebruary 22, 2013

An act to add Chapter 6.25 (commencing with Section 50655.1) to Part 2 of Division 31 of the Health and Safety Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 550, as introduced, Jackson. Accessible housing.

Existing law establishes various programs under the Department of Housing and Community Development, including the California Housing Rehabilitation Program for the development of low-income and multifamily rental housing in the state. Existing law creates the Multifamily Housing Program under the department to provide a standardized set of program rules and features applicable to all housing types based on the existing California Housing Rehabilitation Program. Among other things, the program provides financial assistance to fund projects for, among other things, the development and construction of new, and rehabilitation or acquisition and rehabilitation of, existing, transitional, or rental housing developments, and establishes a project selection process for loans for these projects. Existing law also requires the department to establish a program for the purpose of housing assistance for the physically or developmentally disabled, or mentally disordered.

This bill would create the Accessible Multifamily Housing Act of 2013, which would require new and substantially rehabilitated assisted multifamily housing projects, as defined, for which building permits are issued on and after July 1, 2014, to be designed and constructed to be readily accessible to and usable by individuals with mobility, vision, and hearing impairments, as specified.

By imposing additional enforcement duties on local officials, this bill would create a state-mandated local program.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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. The Legislature finds and declares as follows:
2 (a) There exists within the urban and rural areas of the state a
3 significant number of people with disabilities who lack accessible,
4 decent, safe, and sanitary housing. The lack of affordable,
5 accessible housing is a significant problem for adults and children,
6 contributing to chronic homelessness and unnecessary
7 institutionalization.
8 (b) California housing and building codes and standards do not
9 currently provide for sufficient accessibility for people who need
10 accessible features in their homes, including people who use
11 mobility devices or who have sensory disabilities.
12 (c) Ensuring that state accessibility requirements for assisted
13 multifamily housing projects meet or exceed the accessibility
14 standards required for federally assisted multifamily housing
15 projects will reduce confusion, will provide for a more
16 comprehensive approach to accessibility, and will result in the
17 provision of much needed additional accessible units.
18 SEC. 2. Chapter 6.25 (commencing with Section 50655.1) is
19 added to Part 2 of Division 31 of the Health and Safety Code, to
20 read:
21
22 CHAPTER 6.25. ACCESSIBLE MULTIFAMILY HOUSING ACT OF
23 2013
24
25 50655.1. (a) This chapter shall be known, and may be cited,
26 as the Accessible Multifamily Housing Act of 2013.

1 (b) (1) New and substantially rehabilitated assisted multifamily
2 housing projects shall be designed and constructed to be readily
3 accessible to, and usable by, individuals with disabilities. Subject
4 to paragraph (2), a minimum of 10 percent of the total dwelling
5 units, or at least one unit in the assisted multifamily housing
6 project, whichever is greater, shall be made accessible for persons
7 with mobility impairments. An additional 4 percent of the units,
8 but no fewer than one unit, in the project shall be accessible for
9 persons with hearing or vision impairments.

10 (2) The California Housing Finance Agency, the Department
11 of Housing and Community Development, or other state or local
12 government agency may prescribe a higher percentage or number
13 than that prescribed in paragraph (1), upon a determination that a
14 higher percentage is necessary for a particular program, project,
15 or area, based on census data or other available current data or in
16 response to evidence of a need for a higher percentage or number
17 received in any other manner.

18 (c) This chapter shall apply to all assisted multifamily housing
19 projects for which building permits are issued on and after July 1,
20 2014.

21 50655.2. The following terms have the following meanings
22 for purposes of this chapter:

23 (a) "Accessible" means that a multifamily housing unit is on an
24 accessible route and is adaptable and otherwise in compliance with
25 the standards set forth in Section 8.32 (a), (b), and (c) of Title 24
26 of the Code of Federal Regulations.

27 (b) "Assistance" means the provision of any land or in-kind
28 contributions, as well as any financial assistance, including
29 proceeds of any bond or indenture, loan or grant or bond insurance
30 or guarantees, loans, grants, rental assistance, operational
31 assistance, development assistance, downpayment assistance,
32 rehabilitation assistance, or housing tax credits.

33 (c) "Assisted multifamily housing project" means any newly
34 developed or substantially rehabilitated multifamily housing
35 receiving assistance from state or local public agencies, including
36 from the California Housing Finance Agency, the Department of
37 Housing and Community Development, the California Tax Credit
38 Allocation Committee, local redevelopment agencies and their
39 successors, cities, counties, and city and counties, and public
40 housing authorities.

1 SEC. 3. If the Commission on State Mandates determines that
2 this act contains costs mandated by the state, reimbursement to
3 local agencies and school districts for those costs shall be made
4 pursuant to Part 7 (commencing with Section 17500) of Division
5 4 of Title 2 of the Government Code.

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AGENDA ITEM 6.A.iii

DETAIL SHEET

BILL NUMBER/ISSUE: Community Imperative Declaration

SUMMARY: Participation in the Lanterman Coalition is limited to organizations that support the Community Imperative Declaration. The Coalition on March 22, asked its member organizations to re-affirm their endorsement of the Community Imperative. Will the Council endorse the Community Imperative Declaration?

BACKGROUND: The Community Imperative Declaration was crafted in 1979 by the Center on Human Policy at Syracuse University. At the time many leading academics and disability leaders signed on to it in an attempt to clarify the rights of people with disabilities to community living. The community Imperative is copied below:

THE COMMUNITY IMPERATIVE

A Refutation of All Arguments
in Support of Institutionalizing Anybody
because of Mental Retardation

Center on Human Policy - Syracuse University

In the domain of Human Rights:

- ▶ All people have fundamental moral and constitutional rights.
- ▶ These rights must not be abrogated *merely* because a person has a mental or physical disability.
- ▶ Among these fundamental rights is the right to community living.

In the domain of Educational Programming and Human Services:

- ▶ All people, as human beings, are inherently valuable.
- ▶ All people can grow and develop.
- ▶ All people are entitled to conditions which foster their development.
- ▶ Such conditions are optimally provided in community settings.

Therefore:

- ▶ In fulfillment of fundamental human rights and in securing optimum developmental opportunities, all people, regardless of the severity of their disabilities, are entitled to community living.

In California, in 2001 and 2002, an effort was made by advocates to gain broad support for the Community Imperative. This resulted in most of the major stakeholder organizations endorsing the Declaration, including: The Arc, ARCA, Disability Rights California, California Foundation for Independent Living Centers, California Supported Living Network, Service Employees International Union, Disability Rights Education and Defense Fund, Californians for Disability Rights, California People First, Family Resource Center Network of California, California Developmental Services Association, Developmental Services Network, Cal-TASH, Area Boards 5, 10, and 11, and even the old Organization of Area Boards.

The Lanterman Coalition consists of the 13 major stakeholders in California's community based developmental services system: The Arc and United Cerebral Palsy in California, the Association of Regional Center Agencies, Autism Society of California, California Disability Services Association, California State Council on Developmental Disabilities, California Supported Living Network, Disability Rights California, Family Resource Center Network of California, People First of California, and Service Employees International Union, Cal-TASH, and Easter Seals.

Membership in the coalition requires a commitment to: (1) the Preservation of the Lanterman Act and the entitlement, (2) no categorical elimination of services, (3) no enrollment caps or waiting lists, (4) no reductions to services and supports important to people with Intellectual and Developmental Disabilities and their families and (5) full support of the Community Imperative and the Olmstead decision.

When the Council did become a member of the Lanterman Coalition, it is not clear if the Council formally endorsed the Declaration. Now the Council must determine if it supports the Community Imperative if it is to remain in the Lanterman Coalition.

ANALYSIS/DISCUSSION: The Council must determine if it supports the Community Imperative Declaration. The Community Imperative is a statement of values which implies that all people with developmental disabilities should eventually be served in community settings and not in institutions. It does not prescribe methods or timelines for that transition. However, it does seek to support a policy framework that would result in the eventual downsizing and closure of state institutions for people with developmental disabilities. That policy framework is largely in place in California with a moratorium on DC placements, the Community Placement Plan process, the Department's consistent efforts to decrease the number of people served by DCs, and developmental center closures.

COUNCIL STATE PLAN GOAL: Public policy in California promotes the independence, productivity, inclusion, and self-determination of individuals with developmental disabilities and their families.

PRIOR COUNCIL ACTIVITY: N/A

RECOMMENDATION(S): Endorse the Community Imperative Declaration.

ATTACHMENT(S): N/A

PREPARED: Mark Polit, March 22, 2013

AGENDA ITEM 6.A.iv

DETAIL SHEET

BILL NUMBER/ISSUE: Developmental Center Closure Plan

SUMMARY: Should the Council support, in concept, that a plan be developed by DDS to close all developmental centers (except the forensic unit at Porterville) by an established date?

BACKGROUND: The Lanterman Coalition has asked its members if they can support that concept. Several members of the Coalition are working on ideas for legislation for 2014 that would require the Department to develop a plan for closure of developmental centers by some established date, perhaps five years after adoption of the plan.

The Lanterman Coalition consists of: The Arc and United Cerebral Palsy in California, the Association of Regional Center Agencies, Autism Society of California, California Disability Services Association, California SCDD, California Supported Living Network, DRC, Family Resource Center Network of California, People First of California, and SEIU, Cal-TASH, and Easter Seals.

ANALYSIS/DISCUSSION: The Council should determine if this is useful policy for furthering the goals of the State Plan and furthering the rights and wellbeing of developmental center residents. The remaining residents of developmental centers generally have complex and significant needs. Their transition to community settings must be done carefully, involving family and others who know them, be adequately funded, involve staff who know them, and have oversight.

The danger of a plan for closure by a certain date is that transition may be rushed. An advantage of a plan is that it can help transition to proceed methodically. If the Council supports the concept, then we can be represented among those in the Coalition developing the proposal and be able to influence the proposal as it develops. If the Council does not support the concept, we can still remain a part of the Lanterman Coalition. The Council may also wish to consider alternatives which may allow us to influence the shape of any proposal coming from the Coalition partners. For example, the Council could support the concept of the Department developing a plan, with stakeholder input, for the gradual and steady closure of all DCs in as timely a manner as possible while ensuring residents receive quality appropriate community based services, or some variation on that.

COUNCIL STATE PLAN GOAL: Public policy in California promotes the independence, productivity, inclusion, and self-determination of individuals with developmental disabilities and their families.

PRIOR COUNCIL ACTIVITY: N/A

RECOMMENDATION(S): N/A

ATTACHMENT(S): N/A

PREPARED: Mark Polit, March 22, 2013

FACT SHEET: SENATE BILL 577

SENATOR FRAN PAVLEY

EMPLOYMENT EXPLORATION AND DISCOVERY FOR PERSONS WITH AUTISM AND OTHER DEVELOPMENTAL DISABILITIES

March 22, 2013

THE PROBLEM

Employment exploration and discovery is the missing link in services provided to people with autism and other developmental disabilities. People with disabilities who work in paid, community integrated settings have a higher quality of life, better health outcomes, more access to social relationships, and greater community participation. In addition, they use less publicly funded healthcare, less publicly funded services and resources and they pay taxes.

The current funding structure of Supported Employment Services does not provide sufficient pre-employment services to allow in-depth exploration of the individual's interests and potential, nor does it allow the employment provider to do sufficient targeted outreach and job analysis with potential employers on behalf of the individual to secure employment opportunities that maximize the individual's potential. The current funding structure often results in limiting the career starting point of the individual as well as their long-term vocational success.

Yet, in 2009, based on EDD data, only 14% of working age regional center clients were employed. The 2010 National Core Indicators survey of over 8,724 regional center clients indicated that less than 5% of those surveyed had a job in an integrated competitive employment setting.

Not only are these Californians lacking integrated employment opportunities, but the rate structure for service delivery has unreasonably encouraged the placement of people with developmental disabilities in non-work services and segregated low paying jobs. Additionally, day program service categories are not

designed for job preparation and search activities that would lead to integrated competitive employment.

BACKGROUND

Last year's moratorium for new admittance to state run Developmental Centers is evidence that the Legislature and state are moving toward community integrated settings to serve individuals with disabilities. Supported employment services have proven to provide a less costly service that increases independence and quality of life for individuals with autism and other developmental disabilities. However, in 2008 Supported Employment was cut by 10% and has since seen no restoration of that cut.

Assembly Bill 287 in 2009 enacted the California Employment First Committee to identify ways to increase integrated employment opportunities. This year Assembly Bill 1041 expands on this policy and considers a specified Employment First Policy. Promoting integration competitive employment for people with developmental disabilities is an important bridge to serving this community.

Furthermore, the current funding structure of Supported Employment Services does not provide sufficient pre-employment services to allow in-depth exploration of the individual's interests and potential, nor does it allow the employment provider to do sufficient targeted outreach and job analysis with potential employers on behalf of the individual to secure employment opportunities that maximize the individual's potential. The current funding structure often results in limiting the

career starting point of the individual as well as their long-term vocational success.

THE SOLUTION

Senate Bill 577 would increase opportunities for individuals with autism and other developmental disabilities to gain community employment and career advancement. SB 577 would expand the employment services offered to individuals with autism and other developmental disabilities by creating a Job Exploration and Discovery Service to better match the individual their preferred job and to assist them in reaching their maximum earning potential.

The Job Exploration and Discovery Service would be designed to support the individual in achieving their highest vocational outcome and could include: work experience (such as internships and volunteer opportunities), job exploration, targeted employer outreach, resume development, interviewing skill development, post-secondary support, including technical/vocational schools, and assistance in overcoming social barriers to employment (like appropriate social cueing, executive functioning, grooming, mobility and stamina).

SB 577 would also establish a pilot program, so as individuals with autism and other developmental disabilities start to achieve greater vocational success, an Employment Growth Fund would be created. The Employment Growth Fund would accumulate State savings generated when the individuals covered by this bill; a) moved onto employer paid health benefits and/or, b) earned regular wages over the SGA (Substantial Gainful Activity level) and, c) the employment services the individual receives are less costly to the State than traditional non-work day services. The "Employment Growth Fund" would be used to make milestone (outcome) payments to employment service providers as the individuals they support achieve either employer paid health benefits and/or wages over the SGA.

Savings are generated by:

- Movement onto Employer paid health benefits (reducing Medi-Cal \$ 270/month, savings to DHCS).

- Earning over the SGA (Substantial gainful activity) Level, increasing federal reimbursements to the State (individual eligible for DOR service who achieve SGA allow DOR to receive additional federal funds {approx. \$ 19K per person})

- Individuals achieving either employer paid health benefits and/or earning over SGA, typically generate Purchase of Service savings for DDS (as they move from "traditional Day services" to employment services).

SUPPORT

CDSA (co-sponsor)

Introduced by Senator PavleyFebruary 22, 2013

An act to add Section 4868.5 to the Welfare and Institutions Code, relating to autism.

LEGISLATIVE COUNSEL'S DIGEST

SB 577, as introduced, Pavley. Autism services: pilot program: employment.

The Lanterman Developmental Disabilities Services Act authorizes the State Department of Developmental Services to contract with regional centers to provide services and support to individuals with developmental disabilities, including autism.

This bill would require the State Department of Developmental Services to establish a pilot program for young adults with autism to help them find pathways to financial independence through work. The bill would require the pilot program to develop and implement a new model for providing employment services to autistic individuals and to create financial incentives for employment service providers, as specified, among other requirements. The bill would also set forth related legislative findings and declarations.

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

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

1 (a) One in three adults with autism do not have paid work
2 experience or a college or technical education seven years after
3 leaving the K-12 school system.

4 (b) In order to increase the self-sufficiency of young adults with
5 autism, including increased earning capacity and reduced
6 government benefit support, it is important that the state implement
7 a program to provide individualized skills assessment, social cue
8 training, and specific support to ensure their academic and
9 employment success.

10 (c) The Governor and the Legislature must address the growing
11 need for new models of assessment, career training, and expanding
12 employment opportunities and support options for young adults
13 with autism between 18 and 30 years of age. If this population is
14 left without purposefully designed pathways into employment,
15 these young adults will remain at high risk of public dependency
16 throughout the course of their lives.

17 SEC. 2. Section 4868.5 is added to the Welfare and Institutions
18 Code, to read:

19 4868.5. (a) The State Department of Developmental Services
20 shall establish a pilot program for young adults with autism to help
21 them find pathways to financial independence through work. The
22 program shall be developed and implemented to assist individuals
23 with autism to obtain integrated employment outcomes that result
24 in sufficient wages and benefits in order to decrease, over time,
25 their dependency on public financial support.

26 (b) The pilot program described in subdivision (a) shall do all
27 of the following:

28 (1) Develop and implement a new model for providing
29 employment services to autistic individuals or modify an existing
30 model for providing those services.

31 (2) Identify existing support services that may be modified or
32 combined with supplemental services to provide skills assessment,
33 training, and transition services.

34 (3) Utilize available federal and state incentive programs.

35 (4) Create financial incentives for employment service providers
36 who assist the individuals served by the pilot program to become
37 successfully employed in jobs that pay wages that equal or exceed
38 the Social Security Administration's substantial gainful activity
39 level or result in the individual obtaining employer-based health
40 benefits.

- 1 (5) Develop and implement a protocol for collecting and
- 2 evaluating data regarding the outcomes of autistic individuals who
- 3 participate in the pilot program.

O

Agenda Item 6.A.v

Legislative and Public Policy Committee Report to Council - March 20, 2013

Action Deferred to April 9 Executive Committee

Employment Bills

AB 1041 (Chesbro) Employment First Policy – RECOMMEND SUPPORT. Sponsored by SCDD, AB 1041 would establish an Employment First Policy in statute.

SB 577 (Pavley), Employment Pilot Project – RECOMMEND SUPPORT IN PRINCIPLE, IF AMMENDED. The bill would pilot two innovations aimed at increasing the availability of employment for people with autism. Details of both proposals are not yet in print. (1) A service category for employment preparation; and (2) an incentive system to encourage employment support providers to assist people to obtain integrated competitive employment, including jobs with health benefits. At its January 25, 2012 Council meeting, the Council expressed support for a similar incentive system.

Recommendation to support in principle, IF bill is amended to address employment for people with all developmental disabilities, not just autism.

Autism only legislation

RECOMMED: As a matter of policy, legislation should not create services within the Lanterman Act for any one developmental disability at the exclusion of other developmental disabilities.

SB 946 Implementation

SB 126 (Steinberg) – RECOMMEND SUPPORT. Would extend the sunset of SB 946 to 2019.

Trailer Bill Language on Regional Center Financial Responsibility for Co-pays and Deductibles – RECOMMEND AMENDING. For services covered by a parent’s private insurance AND is included in the IPP/IFSP, the TBL proposed by the Administration would *allow* regional centers to pay co-pays. It would require regional centers to means test the reimbursement of any co-pays. The TBL also forbids regional centers from paying deductibles. **RECOMMEND:** Amend the proposed TBL to *require* regional centers to pay insurance co-pays and deductibles without means testing; and where “parents” are mentioned in the TBL, also include guardians, conservators, caregivers, and authorized representatives.

SB 163 (Hueso) – RECOMMEND CO-SPONSOR. As an alternative to the TBL above, the bill would clarify regional center financial responsibility for co-pays and deductibles. The bill currently has only spot language, but if we are co-sponsors we have greater control over the language developed. Autism Speaks and the Alliance of California Autism Organizations would also co-sponsor.

Equity and Diversity Legislation (Autism Task Force)

Several bills were discussed. With the exception of SB 155 the committee required more time and information and will continue its review at the April 4 meeting: AB 1232 (Perez) on modifications to the quality assessment system; SB 158 (Correa) best practices demonstration; SB 208 (Lara) regional center RFPs; SB 319 (Price) DDS reports on progress; SB 321 (Price) regional center performance contracts; SB 367 (Block) regional center annual strategic plans; and SB 555 (Correa) IPPs and IFSPs.

SB 155 (Correa) – RECOMMEND SUPPORT. DRC sponsored legislation which would require IPPs and IFSPs to consider the cultural and linguistic needs of the consumer and family, in order to provide services in a linguistically and culturally appropriate manner.

Self-Determination Legislation (SB 468)

RECOMMEND SUPPORT – Last year, the Council supported AB 1244 (Chesbro) on Self-Determination. The Self-Determination legislation this year

is SB 468 (Emmerson and Beall). SB 1041 is sponsored by Autism Society of LA and DRC. It would expand the Self-Determination Pilots by establishing a statewide Self-Determination program which will be capped at 2500 participants in the first three years. The program would be cost neutral, represent the ethnic diversity of the state, and increase flexibility in services. The bill is bare bones now and will be filled out. Lapin stated that the self-determination program cap of 2500 individuals would be amended to allow open enrollment in the program after 3 years. Lapin clarified that the program will allow individuals to hire their own workers and purchase non-vendored services. A recommendation was made to include the requirement in the legislation that all regional centers shall offer the program. The committee directed Council staff to work with the sponsors and authors on developing content of the legislation.

Housing Legislation

SB 550 (Jackson) – RECOMMEND SUPPORT. Sponsored by DRC, the bill would require that accessibility requirements for state financed affordable housing be elevated to be consistent with federal requirements. Additionally, the minimum percentage of required accessible units be increased from 5% to 10%.

Abuse and Neglect Legislation

Leslie Morrison, Director of the Disability Rights California (DRC) Investigations Unit, presented on the following three pieces of legislation.

SB 651 (Pavley and Leno) – RECOMMEND SUPPORT. Sponsored by DRC, the bill would require that a suspected victim of sexual assault at developmental centers and state hospitals be provided a medical evidentiary exam performed at an appropriate external facility. Failure to report specified assaults, deaths and injuries to external law enforcement would result in a Class B Citation.

SB 961 (Levine) – RECOMMEND SUPPORT. Sponsored by DRC, the bill would require that certain licensing citations at developmental centers and state hospitals be redacted only for name and personal identifying information. The bill would also require, in these facilities, that Department of Public Health complete its investigation of death, serious injury and other incidents within

specified times. The bill will be amended to require that misconduct of licensed staff in these facilities be reported to the licensing agency.

SB 602 (Yamada) – RECOMMED SUPPORT. This bill would require the Commission on Peace Officer Standards and Training (in the Department of Justice) to establish and keep updated a continuing education classroom training on law enforcement intervention with mentally disabled persons. The bill would require that law enforcement personnel with jurisdiction over state hospitals and developmental centers receive this training. These facilities would be required to immediately (instead of as soon as practically possible) report specified incidents, including death and sexual assault to local law enforcement, and to coordinate its investigations with them.

AGENDA ITEM 6.A.vi

DETAIL SHEET

BILL NUMBER/ISSUE: SB 577 (Pavley), Employment Exploration and Discovery for Persons with Autism and other Developmental Disabilities.

SUMMARY: Will the Council support and co-sponsor SB 577 (Pavley)?

BACKGROUND: Only 14% of working age regional center clients receive a paycheck, including those who work for sub-minimum wage or only a few hours a week. According to the National Core Indicators Survey, only 8% have a job in a community setting.

The Council has been given, by statute, a leadership role in helping California better support people with developmental disabilities to achieve integrated competitive employment. While the Council is sponsoring Employment First Policy legislation, other policy changes will be required to implement the policy.

The current Deputy Director has worked the last three years with stakeholders, policy advocates, and several departments to develop concepts for an incentive system to encourage employment support providers to do the right thing and help people find integrated competitive employment. This work led to the development of SB 577.

SB577 seeks to demonstrate that aligning job development incentives with desired job placement outcomes will increase the placements of people with developmental disabilities into good jobs with benefits and effect savings for the state and federal government. The bill also will pilot a service for employment preparation, an essential element in support people to find good jobs.

ANALYSIS/DISCUSSION: The Council has been asked by the sponsor, California Disability Services Association, and the bill's author to be a co-sponsor of the legislation. This will bring to the effort the Council's work, experience, and credibility on employment issues.

SB 577 is still in development. It is being amended to include services for all developmental disabilities. The policy changes in the bill may make a big contribution to furthering integrated competitive employment. Co-sponsorship will enable the Council to influence the bill's development.

COUNCIL STATE PLAN GOAL: Working age adults with developmental disabilities have the necessary information, tools and supports to succeed in inclusive and gainful work opportunities. The State of California will adopt an Employment First policy which reflects inclusive and gainful employment as the preferred outcome for working age individuals with developmental disabilities.

PRIOR COUNCIL ACTIVITY: The Council has sponsored several pieces of legislation to further employment including, SB 1270 (Chesbro), AB 1224 (Beall), AB 287 (Beall), AB 254 (Beall), and AB 2338 (Chesbro). The Council convenes the Employment First Committee, has funded a major employment grant for transition age youth, and sponsors AB 1041 (Chesbro), the employment first policy

RECOMMENDATION(S): Support and co-sponsor SB 577.

ATTACHMENT(S): SB 577 (Pavley) Fact Sheet, SB 577 (amendments will soon be published).

PREPARED: Mark Polit, March 22, 2013

Agenda Item 6.A.vii

OTHER LEGISLATION



LPPC LEGISLATIVE REPORT
as of 3/25/2013

- GoTo:

AB 18

(Pan D) Individual health care coverage. (Amended: 3/19/2013 [pdf](#) [html](#))

Status: 3/20/2013-Re-referred to Com. on HEALTH.

Location: 3/20/2013-A. HEALTH

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law, the federal Patient Protection and Affordable Care Act (PPACA), requires a health insurance issuer that offers coverage in the small group or individual market to ensure that such coverage, with respect to plan years on or after January 1, 2014, includes the essential health benefits package, which is defined to include pediatric oral care benefits. PPACA requires each state to, by January 1, 2014, establish an American Health Benefit Exchange that facilitates the purchase of qualified health plans by qualified individuals and qualified small employers, as specified, and requires an exchange to allow an issuer to offer stand-alone dental plans in the exchange, provided that the plans cover the pediatric oral care benefits required under the essential health benefits package. This bill would exempt a plan contract or policy offered through the Exchange from covering those pediatric oral care benefits if the Exchange offers a stand-alone dental plan as described in PPACA and would require stand-alone dental plans offered through the Exchange to include coverage of those pediatric oral care benefits. This bill contains other related provisions and other existing laws.

Position

Priority :

AB 50

(Pan D) Health care coverage: Medi-Cal: eligibility: enrollment. (Introduced: 12/21/2012 [pdf](#) [html](#))

Status: 1/14/2013-Referred to Com. on HEALTH.

Location: 1/14/2013-A. HEALTH

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. This bill would require the department to establish a process in accordance with federal law to allow a hospital that is a participating Medi-Cal provider to elect to be a qualified entity for purposes of determining whether any individual is eligible for Medi-Cal and providing the individual with medical assistance during the presumptive eligibility period. This bill contains other related provisions and other existing laws.

Position

Priority :

AB 209

(Pan D) Medi-Cal: managed care: quality and accessibility. (Amended: 3/19/2013 [pdf](#) [html](#))

Status: 3/20/2013-Re-referred to Com. on HEALTH.

Location: 3/20/2013-A. HEALTH

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Calendar: 4/2/2013 1:30 p.m. - State Capitol, Room 4202 ASSEMBLY HEALTH, PAN, Chair

Summary: Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Under existing law, one of the methods by which Medi-Cal services are provided is pursuant to contracts with various types of managed care plans. This bill would require the department to develop and implement a plan, as specified, to monitor, evaluate, and improve the quality and accessibility of health care and dental services provided through Medi-Cal managed care. The bill would require the department to hold quarterly public meetings to report on, among other things, performance measures and quality and access standards, and to invite public comments. The bill would require the department to appoint an advisory committee, with specified responsibilities, for the purpose of making recommendations to the department and to the Legislature in order to improve quality and access in the delivery of Medi-Cal managed care services. The bill would be implemented to the extent that funding is provided in the annual budget act or federal, private, or other non-General Fund moneys are available.

Position

Priority :

AB 230

(Maienschein R) Mental health. (Introduced: 2/5/2013 [pdf](#) [html](#))

Status: 2/6/2013-From printer. May be heard in committee March 8.

Location: 2/5/2013-A. PRINT

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chapted
	1st House				2nd House							

Summary: Existing law authorizes the State Department of State Hospitals, the State Department of Health Care Services, and other departments as necessary to perform various duties relating to mental health services. This bill would state the intent of the Legislature to enact legislation relating to mental health.

Position

Priority :

AB 322

(Yamada D) Home Care Services Act of 2013. (Introduced: 2/12/2013 [pdf](#) [html](#))

Status: 2/28/2013-Referred to Com. on HUM. S.

Location: 2/28/2013-A. HUM. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chapted
	1st House				2nd House							

Summary: Existing law provides for the licensing and regulation of various community care facilities by the State Department of Social Services. This bill would enact the Home Care Services Act of 2013 and would provide for the licensure and regulation of home care organizations, as defined, by the State Department of Social Services. The bill would establish home care organizations as being recognized in the health care industry. The bill would prohibit, after January 1, 2016, an entity from arranging for the provision of home care services by a home care aide without first obtaining a license and would impose a civil penalty on an individual or entity that operates a home care organization without a license. The bill would also impose various licensure requirements on a home care organization. The bill would require a home care organization to provide a client with specified information before arranging for the provision of home care services, as defined, to that client, including, but not limited to, the types and hours of available home care services and the extent to which payment may be expected from specified sources. In addition, the home care organization would be required to, among other things, distribute to the client a written notice of certain enumerated rights. This bill contains other related provisions.

Position

Priority :

AB 364

(Calderon, Ian D) Community care facilities: unannounced visits. (Introduced: 2/14/2013 [pdf](#) [html](#))

Status: 2/28/2013-Referred to Com. on HUM. S.

Location: 2/28/2013-A. HUM. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chapted
	1st House				2nd House							

Calendar: 4/2/2013 1:30 p.m. - State Capitol, Room 437 ASSEMBLY HUMAN SERVICES, STONE, Chair

Summary: The California Community Care Facilities Act provides for the licensure and regulation of community care facilities by the State Department of Social Services. Existing law requires, except as otherwise specified, that every licensed community care facility be subject to unannounced visits by the department and requires the department to visit the facilities as often as necessary to ensure the quality of care provided, but no less often than once every 5 years. This bill would instead require the department to visit a community care facility no less often than once every 2 years.

Position

Priority :

AB 411

(Pan D) Medi-Cal: performance measures. (Introduced: 2/15/2013 [pdf](#) [html](#))

Status: 2/28/2013-Referred to Com. on HEALTH.

Location: 2/28/2013-A. HEALTH

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Calendar: 4/2/2013 1:30 p.m. - State Capitol, Room 4202 ASSEMBLY HEALTH, PAN, Chair

Summary: Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Under existing law, one of the methods by which Medi-Cal services are provided is pursuant to contracts with various types of managed care plans. This bill would require all Medi-Cal managed care plans to analyze their Healthcare Effectiveness Data and Information Set (HEDIS) measures, or their External Accountability Set (EAS) performance measure equivalent, by race, ethnicity, and primary language, and to implement strategies to reduce identified disparities between members of different races and ethnicities and with different primary languages. The bill would also require that these analyses be reported to the State Department of Health Care Services annually and be made available to the public via the department's Internet Web site. This bill would further require all Medi-Cal managed care plans to link individual level data collected as a part of analyzing their HEDIS measures, or their EAS performance measure equivalent, to personal identifiers and to submit that data to the department annually. The department would be required to make the individual level data available for research purposes, as specified.

Position

Priority :

AB 420

(Dickinson D) Pupil discipline: suspensions: willful defiance. (Introduced: 2/15/2013 [pdf](#) [html](#))

Status: 2/28/2013-Referred to Com. on ED.

Location: 2/28/2013-A. ED.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law prohibits a pupil from being suspended from school or recommended for expulsion, unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed a specified act, including, among other acts, disrupting school activities or otherwise willfully defying the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties. This bill would limit that authority of a superintendent of a school district and a principal by only allowing a pupil enrolled in any of grades 9 to 12, inclusive, to be suspended, but not expelled, for willful defiance on or after the 3rd documented offense in a school year, provided other specified correction measures were attempted and documented before the recommendation to suspend. The bill also would state the intent of the Legislature to minimize the excessive use of willful defiance and encourage schools to instead prioritize and use alternative means of correction.

Position

Priority :

AB 554

(Mullin D) State government: Secretary of State: Business Fees Fund. (Introduced: 2/20/2013 [pdf](#) [html](#))

Status: 3/7/2013-Referred to Com. on A. & A.R.

Location: 3/7/2013-A. A. & A.R.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law states that it is the intent of the Legislature that moneys deposited into the Secretary of State's Business Fees Fund be used to support the programs from which the fees are collected and provides that they shall be expended to the extent that appropriations are made in the annual Budget Act. This bill would instead provide that copying and special handling fees be paid into the Secretary of State's Business Fees Fund and would delete the requirement that the implementation of special handling be supported by an appropriation in the annual Budget Act. This bill contains other existing laws.

Position

Priority :

AB 581

(Ammiano D) Residential care facilities for the elderly: retaliation. (Introduced: 2/20/2013 [pdf](#) [html](#))

Status: 3/4/2013-Referred to Coms. on HUM. S. and JUD.

Location: 3/4/2013-A. HUM. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Calendar: 4/2/2013 1:30 p.m. - State Capitol, Room 437 ASSEMBLY HUMAN SERVICES, STONE, Chair

Summary: Existing law establishes the State Department of Social Services, and sets forth its powers and duties, including, but not limited to, the licensing and regulation of day care and residential care facilities, as defined, including, but not limited to, adult residential facilities and residential care facilities for the elderly. Existing law authorizes any person to request an inspection of a facility by transmitting a request to the department alleging a facility violation of applicable law. This bill would, instead, prohibit a adult residential facility licensee or a residential facility for the elderly licensee, or officer or employee of the licensee, from discriminating or retaliating in any manner, including, but not limited to, eviction or threat of eviction, against any person receiving the services of the facility, or against any employee of the licensee's facility, on the basis, or for the reason that, the person or employee or any other person has initiated or participated in the filing of a complaint, grievance, or a request for inspection with the department or the local or state ombudsman pursuant to prescribed provisions of law. By expanding the scope of an existing crime, the bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

Position

Priority :

AB 589

(Fox D) Medical education: underrepresented medical specialties. (Introduced: 2/20/2013 [pdf](#) [html](#))

Status: 3/18/2013-Referred to Com. on HEALTH. (Refers to 4/2/2013 hearing)

Location: 3/7/2013-A. HEALTH

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Calendar: 4/2/2013 Anticipated Hearing ASSEMBLY HEALTH, Not in daily file.

Summary: Existing law establishes the Student Aid Commission as the primary state agency for the administration of state-authorized student financial aid programs available to students attending all segments of postsecondary education. This bill would establish a loan assumption program for physicians working full time in California practicing in underrepresented specialties, as defined. This program would provide loan assumption benefits to persons who agree to work full time for 4 consecutive years in California as physicians practicing in underrepresented specialties, as specified. The program provides for a progressive assumption of the amount of a qualifying loan over 4 consecutive years of qualifying practice, up to a total loan assumption of \$20,000. The bill would require that, in any fiscal year, the commission award no more than the number of warrants that are authorized in the Budget Act for that fiscal year for the assumption of loans pursuant to the program. This program would become inoperative on July 1, 2019, and would be repealed on January 1, 2020. This bill contains other existing laws.

Position

Priority :

AB 602

(Yamada D) Mentally and developmentally disabled persons: reporting abuse: peace officer training.

(Introduced: 2/20/2013 [pdf](#) [html](#))

Status: 3/4/2013-Referred to Com. on PUB. S.

Location: 3/4/2013-A. PUB. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Calendar: 4/2/2013 9 a.m. - State Capitol, Room 126 ASSEMBLY PUBLIC SAFETY, AMMIANO, Chair

Summary: Existing law requires the Commission on Peace Officer Standards and Training, in the Department of Justice, to establish and keep updated a continuing education classroom training course relating to law enforcement intervention with mentally disabled persons and requires the course to be developed in consultation with specified groups and entities. Existing law requires the commission to submit a report to the Legislature that contains specified information regarding this training. This bill would require the commission to establish, by July 1, 2015, and keep updated a training course relating to law enforcement interaction with mentally disabled or developmentally disabled persons living within a state mental hospital or state developmental center, as specified. The training course would be required for law enforcement personnel in law enforcement agencies with jurisdiction over state mental health hospitals and state developmental centers, as part of the agency's officer training program. This bill would require the commission to submit a report to the Legislature, by October 1, 2017, that contains specified information regarding this training. By creating new duties for local officials, this bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

Position

Priority :

AB 620

(Buchanan D) Health and care facilities: missing patients and participants. (Introduced: 2/20/2013 [pdf](#) [html](#))

Status: 3/4/2013-Referred to Com. on HEALTH.

Location: 3/4/2013-A. HEALTH

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Calendar: 4/9/2013 1:30 p.m. - State Capitol, Room 4202 ASSEMBLY HEALTH, PAN, Chair

Summary: Existing law provides for the licensure and regulation of the health facilities, as defined. Existing law requires certain types of health facilities, such as acute care hospitals and skilled nursing facilities, to develop, implement, and comply with a patient safety plan for the purpose of improving the health and safety of patients and reducing preventable patient safety events, as specified. A person who violates the provisions governing health facilities is guilty of a misdemeanor, as specified. This bill would require specified health facilities, including various kinds of intermediate care facilities, congregate living health facilities, and nursing facilities, community care facilities offering adult day programs; and adult day health care centers to develop, implement, comply with, and review annually a safety plan for the purpose of addressing issues that arise when a patient or participant is missing from the facility. The bill would require the plan to include a requirement that an administrator of the facility inform relatives or caretakers, or both, who are authorized to receive information regarding that patient or participant, and local law enforcement when a patient or participant is missing from the facility. Because violations of these provisions would be misdemeanors, the bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

Position

Priority :

AB 663

(Gomez D) Residential care facilities: administrators: training requirements. (Introduced: 2/21/2013 [pdf](#) [html](#))

Status: 3/4/2013-Referred to Com. on HUM. S.

Location: 3/4/2013-A. HUM. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law requires the Director of Social Services, in consultation with the Director of Health Care Services and the Director of Developmental Services, to establish a training program to ensure that licensees, operators, and staffs of adult residential care facilities have appropriate training to provide the care and services for which a license or certificate is issued. Existing law also requires the administrator of an adult residential care facility to undergo 35 hours of training, including specified subjects, including business operations and the psychosocial needs of the facility residents. This bill would require the administrator training to be a total of 40 hours and would require that the training include 5 hours of training in cultural competency and sensitivity in aging lesbian, gay, bisexual, and transgender minority issues.

Position

Priority :

AB 753

(Lowenthal D) Cognitively impaired adults: caregiver resource centers. (Introduced: 2/21/2013 [pdf](#) [html](#).)

Status: 3/4/2013-Referred to Com. on HUM. S.

Location: 3/4/2013-A. HUM. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Under existing law, the Director of Health Care Services and the Statewide Resources Consultant administer a program to provide various services to brain-impaired adults and their families and caregivers. Existing law requires the director to contract with a nonprofit community agency meeting prescribed criteria to act as the Statewide Resources Consultant, and prescribes the duties of the consultant. Existing law also requires the director to contract with nonprofit community resource agencies to establish regionally based resource centers to ensure the existence of an array of appropriate programs and services for brain-impaired adults. This bill would repeal and recast those provisions. This bill would require the director to, among other things, maintain or enter into contracts directly with 11 caregiver resource centers (CRCs) to provide direct services to caregivers of cognitively impaired adults, as defined, throughout the state. These services would include, but not be limited to, specialized information, family consultation, respite care, short-term counseling, and support groups. The bill would require the CRCs to submit progress reports on their activities, as specified. The bill would authorize the director to enter into exclusive or nonexclusive contracts on a bid or negotiated basis and amend existing contracts to provide or arrange for services provided under this chapter. This bill contains other related provisions.

Position

Priority :

AB 784

(Weber D) In-Home Supportive Services: provider health care benefits. (Amended: 3/19/2013 [pdf](#) [html](#).)

Status: 3/20/2013-Re-referred to Com. on HEALTH.

Location: 3/20/2013-A. HEALTH

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Calendar: 4/16/2013 1:30 p.m. - State Capitol, Room 4202 ASSEMBLY HEALTH, PAN, Chair

Summary: Existing law provides for the county-administered In-Home Supportive Services (IHSS) program, under which qualified aged, blind, and disabled persons are provided with services in order to permit them to remain in their own homes and avoid institutionalization. Under existing law, the state, a county, a public authority, a nonprofit consortium, or an IHSS recipient may be considered the employer of an IHSS provider. This bill would establish an advisory committee on the impact of PPACA on health care benefits for providers of IHSS providers and would provide for the appointment of members to the committee by the Governor, the Speaker of the Assembly, and the Senate Committee on Rules, as specified. The bill would require the advisory committee to provide advice on the appropriate employer in the IHSS program to provide health care benefits to IHSS providers under PPACA. This bill contains other existing laws.

Position

Priority :

AB 954

(Maienschein R) Developmental services: habilitation. (Introduced: 2/22/2013 [pdf](#) [html](#).)

Status: 3/7/2013-Referred to Com. on HUM. S.

Location: 3/7/2013-A. HUM. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law provides that an adult who receives services for the developmentally disabled must be provided habilitation services, which include services provided under the Supported Employment Program, when he or she satisfies specified eligibility requirements. Existing law provides that, if a consumer is referred for vocational rehabilitation services and is placed on a waiting list for certain reasons, the regional center must authorize appropriate services for the consumer until services can be provided by the vocational rehabilitation program. Existing law requires the interim program provider to be paid a fee of \$360 or \$720, as specified, to provide these interim services. This bill would increase the hourly rate paid to providers of individualized and group-supported employment services to \$34.24 and increase the fees paid to the interim program providers to \$400 and \$800, respectively.

Position

Priority :

AB 961

(Levine D) Health facilities: investigations: public disclosure. (Introduced: 2/22/2013 [pdf](#) [html](#))

Status: 3/7/2013-Referred to Coms. on HEALTH and JUD.

Location: 3/7/2013-A. HEALTH

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Calendar: 4/2/2013 1:30 p.m. - State Capitol, Room 4202 ASSEMBLY HEALTH, PAN, Chair

Summary: Existing law establishes the State Department of Health Care Services and sets forth its powers and duties, including, but not limited to, the licensing and regulation of health facilities, with certain exceptions. Existing law requires the department to investigate complaints relating to long-term health facilities, as defined. This bill would require the department to complete its investigation and issue a citation within specified time periods, but would allow for an extension of these periods for up to 30 days if the department is unable to complete its investigation due to extenuating circumstances beyond its control, and would require the department to document these circumstances in its final determination. This bill contains other related provisions and other existing laws.

Position

Priority :

AB 1041

(Chesbro D) Developmental services: Employment First Policy. (Introduced: 2/22/2013 [pdf](#) [html](#))

Status: 3/7/2013-Referred to Com. on HUM. S.

Location: 3/7/2013-A. HUM. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: The Lanterman Developmental Disabilities Services Act authorizes the State Department of Developmental Services to contract with regional centers to provide support and services to individuals with developmental disabilities. The services and supports to be provided to a regional center consumer are contained in an individual program plan (IPP), developed in accordance with prescribed requirements. This bill would define competitive employment, microenterprises, and self-employment for these purposes. This bill would require each regional center planning team, when developing an individual program plan for a transition age youth or working age adult, to consider a specified Employment First Policy. The bill would also require regional centers to ensure that consumers, beginning at 16 years of age, and, where appropriate, other specified persons, are provided with information about the Employment First Policy, about options for integrated competitive employment, and about services and supports, including postsecondary education, available to enable the consumer to transition from school to work, and to achieve the outcomes of obtaining and maintaining integrated competitive employment. The bill would authorize the department to request information from regional centers on current and planned activities related to the Employment First Policy. This bill contains other existing laws.

Position

Priority :

[AB 1089](#)

(Calderon, Ian D) Foster care. (Introduced: 2/22/2013 [pdf](#) [html](#))

Status: 3/7/2013-Referred to Com. on HUM. S.

Location: 3/7/2013-A. HUM. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: The Lanterman Developmental Disabilities Services Act authorizes the State Department of Developmental Services to contract with regional centers to provide services and support to individuals with developmental disabilities and their families. The services and supports to be provided to a regional center consumer are contained in an individual program plan or individualized family service plan developed in accordance with prescribed requirements. This bill would specify the transfer procedures that would apply when children who are under 3 years of age who are receiving specified benefits transfer between regional centers or local education agencies, or from a local education agency to a catchment agency where there are no services, as specified. Among other things, the bill would provide that a child shall have the right to receive comparable early intervention services from the new catchment area's regional center, regardless of whether the child has been deemed eligible for provision of and payment for early intervention services through the regional center. By imposing a higher level of service on local entities, the bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

Position

Priority :

[AB 1231](#)

(V. Manuel Pérez D) Regional centers: telehealth and teledentistry. (Amended: 3/21/2013 [pdf](#) [html](#))

Status: 3/21/2013-Referred to Coms. on HUM. S. and HEALTH. From committee chair, with author's amendments: Amend, and re-refer to Com. on HUM. S. Read second time and amended.

Location: 3/21/2013-A. HUM. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: The Lanterman Developmental Disabilities Services Act authorizes the State Department of Developmental Services to contract with regional centers to provide services and support to individuals with developmental disabilities, including autism. This bill would, until January 1, 2019, require the department to inform all regional centers that behavioral health treatment to treat pervasive developmental disorder or autism may be provided through the use of telehealth, as defined, and that dentistry may be provided through the use of teledentistry, as defined. The bill would require the department to provide technical assistance to regional centers on the use of telehealth and teledentistry and to request those centers to include a consideration of telehealth and teledentistry in individual program plans and individualized family services plans, as specified. This bill contains other related provisions.

Position

Priority :

[AB 1232](#)

(V. Manuel Pérez D) Developmental services: quality assessment system. (Introduced: 2/22/2013 [pdf](#) [html](#))

Status: 3/11/2013-Referred to Com. on HUM. S.

Location: 3/11/2013-A. HUM. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is authorized to contract with regional centers to provide services and supports to individuals with developmental disabilities. Existing law requires the department to implement a quality assessment system, as prescribed, to enable the department to assess the performance of the state's developmental services system and to improve services for consumers. Under existing law, the department is required, in consultation with stakeholders, to identify a valid and reliable quality assurance instrument that assesses consumer and family satisfaction, provision of services, and personal outcomes, and, among other things, includes outcome-based measures such as health, safety, and well-being. Under existing law, the department is required to contract with an independent agency or organization that is, in part, experienced in designing valid quality assurance instruments, to implement the system. This bill would require the quality assurance instrument to assess the provision of services in a linguistically and culturally competent manner

and include an outcome-based measure on issues of equity and diversity. This bill would require the independent agency or organization the department contracts with to be experienced in issues relating to linguistic and cultural competency.

Position

Priority :

AB 1340

(Achadjian R) State Hospital Employees Act. (Introduced: 2/22/2013 [pdf](#) [html](#))

Status: 3/14/2013-Referred to Coms. on HEALTH and PUB. S.

Location: 3/14/2013-A. HEALTH

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Calendar: 4/9/2013 1:30 p.m. - State Capitol, Room 4202 ASSEMBLY HEALTH, PAN, Chair

Summary: Existing law provides for state hospitals for the care, treatment, and education of mentally disordered persons. These hospitals are under the jurisdiction of the State Department of State Hospitals, which is authorized by existing law to adopt regulations regarding the conduct and management of these facilities. Existing law requires each state hospital to develop an incident reporting procedure that can be used to, at a minimum, develop reports of patient assaults on employees and assist the hospital in identifying risks of patient assaults on employees. This bill would require state hospitals to establish and maintain an enhanced treatment unit as part of its facilities. The bill would also require any case of assault by a patient of a state hospital, as specified, to be immediately referred to the local district attorney, and if after the referral, the local district attorney declines to prosecute, or the patient is found incompetent to stand trial or not guilty by reason of insanity, the patient is required to be placed in the enhanced treatment unit of the hospital until the patient is deemed safe to return to the regular population of the hospital.

Position

Priority :

AB 1372

(Bonilla D) Health insurance: pervasive developmental disorder or autism. (Introduced: 2/22/2013 [pdf](#) [html](#))

Status: 3/14/2013-Referred to Com. on HEALTH.

Location: 3/14/2013-A. HEALTH

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law requires health insurance policies to provide benefits for specified conditions, including coverage for behavioral health treatment for pervasive developmental disorder or autism, except as specified. Existing law defines behavioral health treatment as professional services and treatment programs that develop or restore the functioning of an individual with pervasive developmental disorder or autism that are, among other things, administered by a qualified autism provider. A qualified autism provider is defined, in part, as a person who is either licensed as a health professional, or accredited and certified by specified entities, who designs, supervises, or provides treatment for pervasive developmental disorder or autism, as specified. Under existing law, specified terms, including provider, professional provider, and network provider, are defined to include the term qualified autism provider. Under existing law, those defined provisions are inoperative on July 1, 2014, and are repealed on January 1, 2015. This bill would extend the operation of those defined provisions until July 1, 2016, and would repeal that provision on January 1, 2017.

Position

Priority :

ABX1 1

(John A. Pérez D) Medi-Cal: eligibility. (Introduced: 1/28/2013 [pdf](#) [html](#))

Status: 3/14/2013-Referred to Com. on RLS.

Location: 3/14/2013-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. This bill would, commencing January 1, 2014, implement various provisions of the federal Patient Protection and Affordable Care Act (Affordable Care Act), as amended, by, among other things, modifying provisions relating to determining eligibility for certain groups. The bill would, in this regard, extend Medi-Cal eligibility to specified adults and would require that income eligibility be determined based on modified adjusted gross income (MAGI), as prescribed. The bill would prohibit the use of an asset or resources test for individuals whose financial eligibility for Medi-Cal is determined based on the application of MAGI. The bill would also add, commencing January 1, 2014, benefits, services, and coverage included in the essential health benefits package, as adopted by the state and approved by the United States Secretary of Health and Human Services, to the schedule of Medi-Cal benefits. This bill contains other related provisions and other existing laws.

Position

Priority :

AJR 7

(Bonta D) Social security, Medicare, and Medicaid. (Introduced: 1/30/2013 [pdf](#) [html](#))

Status: 3/20/2013-From committee: Be adopted. Ordered to third reading. (Ayes 5. Noes 2.) (March 19).

Location: 3/20/2013-A. THIRD READING

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: This measure would request the President and the United States Congress to exclude social security, Medicare, and Medicaid from being a part of any legislation to reduce the federal deficit. This measure would express the Legislature's opposition to cuts to social security, Medicare, and Medicaid, and call on California's representatives to the United States Congress to vote against cuts to social security, Medicare, and Medicaid and to consider improving those systems in ways that would strengthen their protections.

Position

Priority :

SB 1

(Steinberg D) Sustainable Communities Investment Authority. (Introduced: 12/3/2012 [pdf](#) [html](#))

Status: 3/13/2013-From committee: Do pass and re-refer to Com. on T. & H. (Ayes 4. Noes 2. Page 290.) (March 13). Re-referred to Com. on T. & H.

Location: 3/13/2013-S. T. & H.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities to address the effects of blight, as defined. Existing law dissolved redevelopment agencies and community development agencies, as of February 1, 2012, and provides for the designation of successor agencies. This bill would authorize certain public entities of a Sustainable Communities Investment Area, as described, to form a Sustainable Communities Investment Authority (authority) to carry out the Community Redevelopment Law in a specified manner. The bill would require the authority to adopt a Sustainable Communities Investment Plan for a Sustainable Communities Investment Area and authorize the authority to include in that plan a provision for the receipt of tax increment funds provided that certain economic development and planning requirements are met. The bill would authorize the legislative body of a city or county forming an authority to dedicate any portion of its net available revenue, as defined, to the authority through its Sustainable Communities Investment Plan. The bill would require the authority to contract for an independent financial and performance audit every 5 years. This bill contains other related provisions and other existing laws.

Position

Priority :

SB 18

(Hernandez D) Individual health care coverage. (Introduced: 12/3/2012 [pdf](#) [html](#))

Status: 1/10/2013-Referred to Com. on RLS.

Location: 1/10/2013-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing federal law, the federal Patient Protection and Affordable Care Act (PPACA) enacts various health care coverage market reforms that take effect January 1, 2014. Among other things, PPACA requires each health insurance issuer that offers health insurance coverage in the individual or group market in a state to accept every employer and individual in the state that applies for that coverage and to renew that coverage at the option of the plan sponsor or the individual. PPACA prohibits a group health plan and a health insurance issuer offering group or individual health insurance coverage from imposing any preexisting condition exclusion with respect to that plan or coverage. PPACA allows the premium rate charge by a health insurance issuer offering small group or individual coverage to vary only by family composition, rating area, age, and tobacco use, as specified, and prohibits discrimination against individuals based on health status. This bill would state the intent of the Legislature to enact legislation that would reform the individual health care coverage market consistent with the PPACA. This bill contains other related provisions and other existing laws.

Position

Priority :

SB 20**(Hernandez D) Health care: workforce training.** (Amended: 2/14/2013 [pdf](#) [html](#))**Status:** 3/15/2013-Set for hearing April 3.**Location:** 2/28/2013-S. HEALTH

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Calendar: 4/3/2013 1:30 p.m. - John L. Burton Hearing Room (4203) SENATE HEALTH, HERNANDEZ, Chair

Summary: Existing law provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and imposes certain requirements on health care service plans. Existing law imposes, for certain violations of these provisions, various fines and administrative penalties, which are deposited in the Managed Care Administrative Fines and Penalties Fund. Existing law requires the first \$1,000,000 in the fund to be transferred each year to the Medically Underserved Account for Physicians in the Health Professions Education Fund for purposes of the Steven M. Thompson Physician Corps Loan Repayment Program. Existing law requires all remaining funds to be transferred each year to the Major Risk Medical Insurance Fund for purposes of the Major Risk Medical Insurance Program. This bill, beginning on the date that the Major Risk Medical Insurance Program becomes inoperative, would instead require all the funds in the Managed Care Administrative Fines and Penalties Fund to be transferred each year to the Medically Underserved Account for Physicians in the Health Professions Education Fund for purposes of the Steven M. Thompson Physician Corps Loan Repayment Program. The bill would require the Director of Finance to notify the Joint Legislative Budget Committee in that regard.

Position

Priority :

SB 22**(Beal D) Health care coverage: mental health parity.** (Amended: 2/26/2013 [pdf](#) [html](#))**Status:** 3/15/2013-Set for hearing April 3.**Location:** 3/11/2013-S. HEALTH

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Calendar: 4/3/2013 1:30 p.m. - John L. Burton Hearing Room (4203) SENATE HEALTH, HERNANDEZ, Chair

Summary: Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law requires health care service plan contracts or health insurance policies issued, amended, or renewed on or after July 1, 2000, to provide coverage for the diagnosis and medically necessary treatment of severe mental illnesses, as defined, and of serious emotional disturbances of a child, as specified, under the same terms and conditions applied to other medical conditions. This bill would, on or after July 1, 2014, require every health care service plan, contractor

of a health service plan, and health insurer to submit an annual report to the Department of Managed Health Care or the Department of Insurance, as appropriate, certifying compliance with specified state laws and the MHPAEA, except as provided. The bill would require the reports to be a public record made available upon request and to be published on the respective department's Internet Web site. The bill would require a plan, contractor, and health insurer to provide an analysis of the entity's compliance with the law using certain mental health parity standards and to conduct surveys of enrollees, insureds, and providers as part of the report, as specified. This bill contains other existing laws.

Position

Priority :

SB 28

(Hernandez D) Medi-Cal: eligibility. (Introduced: 12/3/2012 [pdf](#) [html](#))

Status: 1/10/2013-Referred to Com. on HEALTH.

Location: 1/10/2013-S. HEALTH

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. This bill would, commencing January 1, 2014, implement various provisions of the federal Patient Protection and Affordable Care Act (Affordable Care Act), as amended, by, among other things, modifying provisions relating to determining eligibility for certain groups. The bill would, in this regard, extend Medi-Cal eligibility to specified adults and would require that income eligibility be determined based on modified adjusted gross income (MAGI), as prescribed. The bill would prohibit the use of an asset or resources test for individuals whose financial eligibility for Medi-Cal is determined based on the application of MAGI. The bill would also add, commencing January 1, 2014, benefits, services, and coverage included in the essential health benefits package, as adopted by the state and approved by the United States Secretary of Health and Human Services, to the schedule of Medi-Cal benefits. This bill contains other related provisions and other existing laws.

Position

Priority :

SB 111

(Beall D) Elections: voter signature. (Amended: 3/6/2013 [pdf](#) [html](#))

Status: 3/22/2013-Set for hearing April 2.

Location: 3/6/2013-S. E. & C.A.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Calendar: 4/2/2013 1:30 p.m. - Room 3191 SENATE ELECTIONS AND CONSTITUTIONAL AMENDMENTS, CORREA, Chair

Summary: Existing law authorizes certain persons to use a signature stamp to affix a signature to various elections documents. Existing law prohibits a voter from using a signature stamp until the signature stamp is used by the voter to sign an affidavit of registration in the presence of a county elections official. This bill would additionally authorize certain registered voters to use a signature stamp if the voter submits an affidavit of registration electronically utilizing a signature stamp that has been approved by the Department of Motor Vehicles and transmitted to the Secretary of State . This bill contains other existing laws.

Position

Priority :

SB 126

(Steinberg D) Health care coverage: pervasive developmental disorder or autism.

(Introduced: 1/22/2013 [pdf](#) [html](#))

Status: 3/15/2013-Set for hearing April 10.

Location: 1/31/2013-S. HEALTH

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Calendar: 4/10/2013 1:30 p.m. - John L. Burton Hearing Room (4203)
 SENATE HEALTH, HERNANDEZ, Chair

Summary: Existing law provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law requires health care service plan contracts and health insurance policies to provide benefits for specified conditions, including coverage for behavioral health treatment, as defined, for pervasive developmental disorder or autism, except as specified. A willful violation of these provisions with respect to health care service plans is a crime. These provisions are inoperative on July 1, 2014, and are repealed on January 1, 2015. This bill would extend the operation of these provisions until July 1, 2019, and would repeal these provisions on January 1, 2020. By extending the operation of provisions establishing crimes, the bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

Position

Priority :

SB 137

(Emmerson R) Developmental services: regional centers. (Introduced: 1/28/2013 [pdf](#) [html](#))

Status: 3/12/2013-Set for hearing April 9.

Location: 2/7/2013-S. HUM. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Calendar: 4/9/2013 1:30 p.m. - Room 3191 SENATE HUMAN SERVICES, YEE, Chair

Summary: Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is authorized to contract with regional centers to provide support and services to individuals with developmental disabilities. Existing law requires a regional center to include specified information on its Internet Web site for the purpose of promoting transparency and access to public information that includes specified information. This bill would require that information to include specified information about payments to vendors and to nonprofit housing organizations.

Position

Priority :

SB 138

(Hernandez D) Confidentiality of medical information. (Amended: 3/13/2013 [pdf](#) [html](#))

Status: 3/15/2013-Set for hearing April 3.

Location: 3/13/2013-S. HEALTH

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Calendar: 4/3/2013 1:30 p.m. - John L. Burton Hearing Room (4203) SENATE HEALTH, HERNANDEZ, Chair

Summary: Existing federal law, the Health Insurance Portability and Accountability Act of 1996 (HIPAA), establishes certain requirements relating to the provision of health insurance, and the protection of privacy of individually identifiable health information. This bill would declare the intent of the Legislature to incorporate HIPAA standards into state law and to clarify standards for protecting the confidentiality of medical information in insurance transactions. The bill would define additional terms in connection with maintaining the confidentiality of this information, including an "authorization for insurance communications," which an insured individual may submit for the purpose of specifying disclosable medical information and insurance transactions, and permissible recipients. This bill contains other related provisions and other existing laws.

Position

Priority :

SB 154

(Berryhill R) Community care facilities. (Introduced: 1/31/2013 [pdf](#) [html](#))

Status: 2/14/2013-Referred to Com. on RLS.

Location: 2/14/2013-S. RLS.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Enrolled	Vetoed	Chaptered

2Year Dead	1st House	2nd House	Conf. Conc.		
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Summary: Existing law, the California Community Care Facilities Act, provides for the licensure and regulation of community care facilities by the State Department of Social Services. This bill would make technical, nonsubstantive changes to these provisions.

Position

Priority :

SB 158

(Correa D) Autism services: demonstration program. (Amended: 3/21/2013 [pdf](#) [html](#))

Status: 3/21/2013-From committee with author's amendments. Read second time and amended. Re-referred to Com. on RLS.

Location: 3/21/2013-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: The Lanterman Developmental Disabilities Services Act authorizes the State Department of Developmental Services to contract with regional centers to provide services and support to individuals with developmental disabilities, including autism. This bill would establish , until January 1, 2019, a demonstration program that would be known as the Regional Center Excellence in Community Autism Partnerships (RE CAP) program to implement measures in underserved communities to promote awareness and reduce the stigma associated with autism or pervasive developmental spectrum disorders, improve the early screening, diagnosis, and assessment of those disorders, and increase access to evidence-based interventions and treatments, as specified. The bill would require the department to contract with a University of California or California State University campus to serve as the coordinating center for the program. The bill would also require the departm ent to define the responsibilities of the coordinating center and to establish criteria for participation in, and guidelines for the implementation of, the program. The bill would require, on or before January 1, 2018, the center, or its designee, to provide information to the appropriate committees of the Legislature, the department, the Governor's office, and participating regional centers information regarding the efficacy and outcomes of the RE CAP program .

Position

Priority :

SB 163

(Rubio D) Health care coverage: regional center responsibilities. (Introduced: 2/1/2013 [pdf](#) [html](#))

Status: 2/14/2013-Referred to Com. on RLS.

Location: 2/14/2013-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and provides for the regulation of health insurers by the Department of Insurance. Existing law requires those health care service plan contracts and health insurance policies, except as specified, to provide coverage for behavioral health treatment, as defined, for pervasive developmental disorder or autism. Existing law provides, however, that no benefits are required to be provided that exceed the essential health benefits that will be required under specified federal law. This bill would declare the intent of the Legislature to enact legislation that would provide clarification for the implementation of those provisions of law with regards to fiscal responsibilities of regional centers that provide services and supports to individuals with developmental disabilities..

Position

Priority :

SB 164

(Rubio D) Developmental services: regional centers: funding. (Introduced: 2/1/2013 [pdf](#) [html](#))

Status: 2/14/2013-Referred to Com. on RLS.

Location: 2/14/2013-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Under the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is required to contract with regional centers to provide services and supports to individuals with developmental disabilities. This bill would state that it is the intent of the Legislature to enact legislation to require the department to report to the Legislature on the status of its budget process for regional center funding.

Position

Priority :

SB 172

(Beall D) In-home supportive services: sales tax. (Introduced: 2/5/2013 [pdf](#) [html](#))

Status: 2/14/2013-Referred to Com. on RLS.

Location: 2/14/2013-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law, the Sales and Use Tax Law, imposes a sales tax on retailers for the privilege of selling tangible personal property at retail, measured by the gross receipts from the sale of tangible personal property sold at retail in this state. A violation of specified provisions of this law is a crime. Existing law similarly imposes a sales tax on providers of support services, for the privilege of selling support services at retail, measured by the gross receipts from the sale of those services in this state at a specified rate of those gross receipts. This bill would make a technical, nonsubstantive change by extending the earliest implementation date for the provider tax and supplementary payment provisions from January 1, 2012, to July 1, 2012. This bill contains other related provisions and other existing laws.

Position

Priority :

SB 208

(Lara D) Developmental services: request for proposals. (Amended: 3/14/2013 [pdf](#) [html](#))

Status: 3/21/2013-Re-referred to Com. on HUMAN S.

Location: 3/21/2013-S. HUM. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is authorized to contract with regional centers to provide services and supports to individuals with developmental disabilities. The services and supports to be provided to a regional center consumer are contained in an individual program plan (IPP), developed in accordance with prescribed requirements. Existing law authorizes the regional center to, among other things, solicit an individual or agency, by requests for proposals (RFPs) or other means, to provide needed services or supports that are not available to achieve the stated objectives of a consumer's IPP. This bill would establish the Equity and Diversity in Developmental Services Act, and would require a request for proposals that is prepared by the department or by a regional center and that relates to consumer programs or services and supports to include a section on issues of equity and diversity, as specified.

Position

Priority :

SB 231

(Correa D) Bullying: California Bullying Prevention Hotline. (Amended: 3/20/2013 [pdf](#) [html](#))

Status: 3/20/2013-From committee with author's amendments. Read second time and amended. Re-referred to Com. on RLS.

Location: 3/20/2013-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law defines "bullying" as any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, as defined, and including one or

more acts of sexual harassment, threats, or intimidation, directed against school district personnel or pupils, committed by a pupil or a group of pupils, that would cause a reasonable pupil, as defined, to be in fear of harm to his or her person or property, to experience a substantially detrimental effect on his or her physical or mental health, to experience substantial interference with his or her academic performance, or to experience substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by a school. This bill would enact the Michael Joseph Berry Peer Abuse Prevention and Awareness Act of 2013, pursuant to which the California Bullying Prevention Hotline would be established. The hotline would be administered by the State Department of Education. The bill would require the State Department of Education, in consultation with the Student Mental Health Initiative of the State Department of Health Care Services and other entities deemed appropriate, to contract with an entity that has experience in hotline telephone services, behavioral health services, crisis prevention and intervention services, suicide prevention and intervention services, and with providing services in a linguistically and culturally competent manner. The bill would specify the types of information to be communicated to callers to the hotline. The bill would require the State Department of Education to recommend to school districts appropriate guidelines, best practices, and information that school districts may disseminate to pupils and their families about the existence, goals, and objectives of the California Bullying Prevention Hotline. This bill contains other related provisions.

Position

Priority :

SB 232

(Monning D) Private employment: public transit employees. (Introduced: 2/11/2013 [pdf](#) [html](#))

Status: 3/19/2013-Set for hearing April 10.

Location: 2/21/2013-S. L. & I.R.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptured
	1st House				2nd House							

Calendar: 4/10/2013 9:30 a.m. - Rose Ann Vuich Hearing Room (2040) SENATE LABOR AND INDUSTRIAL RELATIONS, LIEU, Chair

Summary: Existing law requires a local government agency to give a 10% preference to any bidder on a service contract to provide public transit services who agrees to retain employees of the prior contractor or subcontractor for a period of not less than 90 days, as specified. This bill would expand these provisions to require a state agency to also give a 10% preference to any bidder under these provisions.

Position

Priority :

SB 295

(Emmerson R) Sexually violent predators: civil commitment. (Amended: 3/21/2013 [pdf](#) [html](#))

Status: 3/21/2013-From committee with author's amendments. Read second time and amended. Re-referred to Com. on RLS.

Location: 3/21/2013-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptured
	1st House				2nd House							

Summary: Existing law provides for the civil commitment of criminal offenders who have been determined to be sexually violent predators for treatment in a secure state hospital facility, as specified. Existing law requires the Secretary of the Department of Corrections and Rehabilitation to refer a prisoner for evaluation by the State Department of State Hospitals when the secretary determines that the person may be a sexually violent predator and specifies the judicial processes necessary for civil commitment as a sexually violent predator, including, but not limited to, the right to a jury trial. Existing law establishes provisions by which a committed person may petition for conditional release or unconditional discharge. Proposition 83 of the November 7, 2006, statewide general election, made various changes to the sexually violent predator civil commitment process. This bill would clarify which provisions are to be used when a committed person petitions for conditional release and which provisions are to be used when a committed person petitions for unconditional discharge. The bill would also require the community program director designated by the State Department of State Hospitals to submit a report to the court in response to the petition that makes a recommendation as to the appropriateness of placement of the person in a state-operated forensic conditional release program before a hearing can be held. The bill would require, as part of the conditional release hearing, that a designated attorney represent the state and have the committed person evaluated by experts chosen by the state. The bill would also prohibit, if unconditional discharge is denied, the committed person from petitioning for unconditional discharge for one year. This bill contains other related provisions and other existing laws.

Position

Priority :

SB 319

(Price D) Developmental services: regional centers: data compilation. (Introduced: 2/19/2013 [pdf](#) [html](#))

Status: 2/28/2013-Referred to Com. on RLS.

Location: 2/28/2013-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Under the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is required to contract with regional centers to provide services and supports to individuals with developmental disabilities. This bill would state that it is the intent of the Legislature to enact legislation to require the department to provide quarterly updates regarding the department's progress in meeting specified data compilation requirements in collaboration with regional centers.

Position

Priority :

SB 321

(Price D) Developmental services: regional centers: performance contracts. (Introduced: 2/19/2013 [pdf](#) [html](#))

Status: 3/12/2013-Set for hearing April 9.

Location: 2/28/2013-S. HUM. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Calendar: 4/9/2013 1:30 p.m. - Room 3191 SENATE HUMAN SERVICES, YEE, Chair

Summary: Under the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is required to contract with regional centers to provide services and supports to individuals with developmental disabilities. Existing law requires the state to enter into 5-year contracts with the regional centers, subject to the annual appropriation of funds by the Legislature, and requires that the contracts include annual performance objectives, as specified. This bill would, in this regard, require the department to establish performance contract guidelines and measures relating to issues of cultural and linguistic competency.

Position

Priority :

SB 322

(Price D) Applied behavioral analysis therapists: certification. (Introduced: 2/19/2013 [pdf](#) [html](#))

Status: 2/28/2013-Referred to Com. on RLS.

Location: 2/28/2013-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law defines "applied behavioral analysis," for purposes of provisions governing services for the developmentally disabled, to mean the design, implementation, and evaluation of systematic instructional and environmental modifications to promote positive social behavior and reduce or ameliorate behaviors that interfere with learning and social interaction. Existing law provides for the licensure and regulation of various healing arts practitioners, including, but not limited to, marriage and family therapists, clinical social workers, educational psychologists, and professional clinical counselors, by the Board of Behavioral Sciences in the Department of Consumer Affairs. This bill would express the intent of the Legislature to enact legislation to provide for the certification of applied behavioral analysis therapists.

Position

Priority :

SB 349

(Walters R) Home- and community-based services waiver for the developmentally disabled: sheltered work. (Introduced: 2/20/2013 [pdf](#) [html](#))

Status: 2/28/2013-Referred to Com. on HUMAN S.

Location: 2/28/2013-S. HUM. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing federal law provides for various home- and community-based services waivers. This bill would require a provider of sheltered work under a specified home- and community-based services waiver to demonstrate that the provider is transitioning at least 20 percent of its clients annually into integrated, individualized employment settings, with or without support, in order to get reimbursed under the waiver.

Position

Priority :

SB 367

(Block D) Developmental services: regional centers. (Introduced: 2/20/2013 [pdf](#) [html](#))

Status: 2/28/2013-Referred to Com. on RLS.

Location: 2/28/2013-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is authorized to contract with regional centers to provide support and services to individuals with developmental disabilities. Existing law requires the department, when approving regional center contracts, to ensure that regional center staffing patterns demonstrate that direct service coordination is the highest priority. This bill would state the intent of the Legislature to enact legislation that would provide that the department require regional centers to develop annual strategic plans that address issues of cultural and linguistic competency.

Position

Priority :

SB 368

(Pavley D) Special education credentialing. (Introduced: 2/20/2013 [pdf](#) [html](#))

Status: 2/28/2013-Referred to Com. on RLS.

Location: 2/28/2013-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law prescribes requirements for the credentialing and qualifications of special education teachers in the state. This bill would declare the intent of the Legislature to enact subsequent legislation that would provide for an increased number of persons who can become credentialed special education teachers by creating multiple pathways for the training and credentialing of special education teachers in the state.

Position

Priority :

SB 391

(DeSaulnier D) California Homes and Jobs Act of 2013. (Introduced: 2/20/2013 [pdf](#) [html](#))

Status: 3/12/2013-Set for hearing April 9.

Location: 2/28/2013-S. T. & H.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Calendar: 4/9/2013 1:30 p.m. - John L. Burton Hearing Room (4203) SENATE TRANSPORTATION AND HOUSING, DESAULNIER, Chair

Summary: Under existing law, there are programs providing assistance for, among other things, emergency housing, multifamily housing, farmworker housing, home ownership for very low and low-income households, and downpayment assistance for first-time homebuyers. Existing law also authorizes the issuance of bonds in specified amounts pursuant to the State General Obligation Bond Law. Existing law requires that proceeds from the sale of these bonds be used to finance various existing housing programs, capital outlay related to infill development, brownfield cleanup that promotes infill development, and housing-related parks. This bill would enact the California Homes and Jobs Act of 2013. The bill would make legislative findings and declarations relating to the need for establishing permanent, ongoing sources of funding dedicated to affordable housing development. The bill would impose a fee, except as provided, of \$75 to be paid at the time of the recording of every real estate instrument, paper, or notice required or permitted by law to be recorded. By imposing new duties on counties with respect to the imposition of the recording fee, the bill would create a state-mandated local program. The bill would require that revenues from this fee be sent quarterly to the Department of Housing and Community Development for deposit in the California Homes and Jobs Trust Fund, which the bill would create within the State Treasury. The bill would provide that moneys in the fund may be expended for supporting affordable housing, administering housing programs, and the cost of periodic audits, as specified. The bill would impose certain auditing and reporting requirements. This bill contains other related provisions and other existing laws.

Position

Priority :

SB 468

(Emmerson R) Developmental services: statewide self-determination project. (Introduced: 2/21/2013 [pdf](#) [html](#))

Status: 3/11/2013-Referred to Com. on HUMAN S.

Location: 3/11/2013-S. HUM. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services contracts with regional centers to provide support and services to individuals with developmental disabilities. Under existing law, the regional centers purchase needed services and supports for individuals with developmental disabilities through approved service providers, or arrange for their provision through other publicly funded agencies. The services and supports to be provided to a regional center consumer are contained in an individual program plan (IPP), developed in accordance with prescribed requirements. Existing law establishes, contingent upon approval of a federal waiver, the Self-Directed Services Program, and requires the program to be available in every regional center catchment area to provide participants, within an individual budget, greater control over needed services and supports. This bill would require the department to implement a statewide self-determination project under which funds from regional center budgets are allocated for local self-determination projects that will enhance the ability of a consumer and his or her family to control the decisions and resources required to meet the objectives in his or her individual program plan. The statewide project would be phased in over 3 years, and serve up to 2500 regional center consumers. The bill would require the department to ensure, among other things, that self-determination is available as a choice and participants in the project reflect the disability, ethnic, and geographic diversity of the state. The bill would require self-determination projects to include, among other things, increased consumer and family control over which services best meet their needs and the IPP objectives and comprehensive person-centered planning. This bill would require a self-determination project to establish a local advisory committee, as prescribed, to provide oversight of the project and to submit, by September 1, 2016, specified recommendations to the department regarding the effectiveness of the project. This bill contains other related provisions.

Position

Priority :

SB 488

(Rubio D) Health care coverage: pervasive developmental disorder or autism. (Introduced: 2/21/2013 [pdf](#) [html](#))

Status: 3/11/2013-Referred to Com. on RLS.

Location: 3/11/2013-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law requires health care service plan contracts and health insurance policies to provide coverage for behavioral health treatment, as defined, for pervasive developmental disorder or autism. These provisions are inoperative on July 1, 2014, and are repealed on January 1, 2015. This bill would make technical, nonsubstantive changes to those provisions.

Position

Priority :

SB 554

(Anderson R) Employment: overtime compensation. (Introduced: 2/22/2013 [pdf](#) [html](#))

Status: 3/19/2013-Set for hearing April 24.

Location: 3/11/2013-S. L. & I.R.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chapters
	1st House				2nd House							

Calendar: 4/24/2013 9:30 a.m. - Rose Ann Vuich Hearing Room (2040) SENATE LABOR AND INDUSTRIAL RELATIONS, LIEU, Chair

Summary: Existing law, with certain exceptions, establishes 8 hours as a day's work and a 40-hour workweek, and requires payment of prescribed overtime compensation for additional hours worked. Existing law, except as specified, requires compensation for any work in excess of 8 hours in one workday at the rate of no less than 1.5 times the regular rate of pay for an employee, and compensation for any work in excess of 12 hours in one day at twice the regular rate of pay for an employee. Under existing law, a person who violates the provisions regulating work hours is guilty of a misdemeanor. This bill would exempt employees of 24-hour nonmedical out-of-home licensed residential facilities of 15 beds or fewer for the developmentally disabled, elderly, or mentally ill adults from the above-described provisions, and would authorize overtime pay at specified rates for all hours worked by those employees in excess of 40 or 48 hours in a workweek, or in excess of 16 hours in a workday. The bill would prohibit employees from working more than 24 consecutive hours, until the employee receives at least 8 hours of off-duty period, as specified. Because a violation of these provision would be a misdemeanor, this bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

Position .

Priority :

SB 555

(Correa D) Developmental services: individual program plans and individual family service plans.

(Introduced: 2/22/2013 [pdf](#) [html](#))

Status: 3/11/2013-Referred to Com. on RLS.

Location: 3/11/2013-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chapters
	1st House				2nd House							

Summary: Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is authorized to contract with regional centers to provide services and supports to individuals with developmental disabilities. The services and supports to be provided to a regional center consumer are contained in an individual program plan (IPP) or individual family service plan (IFSP), developed in accordance with prescribed requirements. Existing law states that it is the intent of the Legislature to ensure that the individual program plan and provision of services and supports by the regional center system is centered on the individual and the family of the individual with developmental disabilities and takes into account the needs and preferences of the individual and the family, as specified. This bill would state the intent of the Legislature to enact legislation that would require an IPP or IFSP to consider the needs of the consumer, and his or her family, in order to provide services and supports in a culturally and linguistically appropriate manner.

Position

Priority :

SB 577

(Pavley D) Autism services: pilot program: employment. (Introduced: 2/22/2013 [pdf](#) [html](#))

Status: 3/11/2013-Referred to Com. on HUMAN S.

Location: 3/11/2013-S. HUM. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: The Lanterman Developmental Disabilities Services Act authorizes the State Department of Developmental Services to contract with regional centers to provide services and support to individuals with developmental disabilities, including autism. This bill would require the State Department of Developmental Services to establish a pilot program for young adults with autism to help them find pathways to financial independence through work. The bill would require the pilot program to develop and implement a new model for providing employment services to autistic individuals and to create financial incentives for employment service providers, as specified, among other requirements. The bill would also set forth related legislative findings and declarations.

Position

Priority :

SB 651

(Pavley D) Developmental centers and state hospitals. (Introduced: 2/22/2013 [pdf](#) [html](#))

Status: 3/20/2013-Set for hearing April 9.

Location: 3/11/2013-S. HUM. S.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Calendar: 4/9/2013 1:30 p.m. - Room 3191 SENATE HUMAN SERVICES, YEE, Chair

Summary: Existing law establishes the State Department of Developmental Services and sets forth its powers and duties relating to the administration of the state developmental centers. Existing law establishes the State Department of State Hospitals and sets forth its powers and duties relating to the administration of state hospitals. This bill would require designated investigators of developmental centers and state hospitals to ensure that a resident of a developmental center or a resident of a state hospital, as applicable, who is a victim or suspected victim of sexual assault, as defined, is provided a medical evidentiary examination performed at an appropriate facility off the grounds of the developmental center or state hospital in accordance with specified provisions. This bill contains other related provisions and other existing laws.

Position

Priority :

SB 663

(Lara D) Sexual assault: victims with intellectual and developmental disabilities.

(Introduced: 2/22/2013 [pdf](#) [html](#))

Status: 3/11/2013-Referred to Com. on RLS.

Location: 3/11/2013-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law proscribes various types of sexual assault, including the crime of rape, which is punishable by imprisonment in the state prison for 3, 6, or 8 years. This bill would express the intent of the Legislature to enact legislation that would help to ensure that there is justice for individuals with intellectual and developmental disabilities who are victims of sexual assault and would set forth related findings and declarations. This bill contains other existing laws.

Position

Priority :

SB 784

(Fuller R) Developmental services. (Introduced: 2/22/2013 [pdf](#) [html](#))

Status: 3/11/2013-Referred to Com. on RLS.

Location: 3/11/2013-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is authorized to contract with regional centers to provide support and services to individuals with developmental disabilities. This bill would state the intent of the Legislature to require the department to encourage regional centers to enter into collaborative partnerships with community-based organizations and to promote volunteerism.

Position

Priority :

SBX1 1

(Hernandez D) Medi-Cal: eligibility. (Introduced: 1/28/2013 [pdf](#) [html](#))

Status: 3/7/2013-In Assembly. Read first time. Held at Desk.

Location: 3/7/2013-A. DESK

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. This bill would, commencing January 1, 2014, implement various provisions of the federal Patient Protection and Affordable Care Act (Affordable Care Act), as amended, by, among other things, modifying provisions relating to determining eligibility for certain groups. The bill would, in this regard, extend Medi-Cal eligibility to specified adults and would require that income eligibility be determined based on modified adjusted gross income (MAGI), as prescribed. The bill would prohibit the use of an asset or resources test for individuals whose financial eligibility for Medi-Cal is determined based on the application of MAGI. The bill would also add, commencing January 1, 2014, benefits, services, and coverage included in the essential health benefits package, as adopted by the state and approved by the United States Secretary of Health and Human Services, to the schedule of Medi-Cal benefits. This bill contains other related provisions and other existing laws.

Position

Priority :

SBX1 3

(Hernandez D) Health care coverage: bridge plan. (Amended: 3/6/2013 [pdf](#) [html](#))

Status: 3/20/2013-From committee: Do pass and re-refer to Com. on APPR. (Ayes 8. Noes 0. Page 36.) (March 20). Re-referred to Com. on APPR.

Location: 3/20/2013-S. APPR.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: Existing law, the federal Patient Protection and Affordable Care Act, requires each state to, by January 1, 2014, establish an American Health Benefit Exchange that makes available qualified health plans to qualified individuals and small employers. This bill would exempt a bridge plan product, as defined, from that latter requirement. This bill contains other related provisions and other existing laws.

Position

Priority :

SCA 10

(Wolk D) Legislative procedure. (Introduced: 1/22/2013 [pdf](#) [html](#))

Status: 1/31/2013-Referred to Com. on RLS.

Location: 1/31/2013-S. RLS.

2Year Dead	Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
	1st House				2nd House							

Summary: The California Constitution prohibits a bill other than the Budget Bill from being heard or acted on by a committee or either house of the Legislature until the 31st day after the bill is introduced, unless the house dispenses with this requirement by rollcall vote entered in the journal, 3/4 of the membership concurring. This measure would add an additional exception to this 31-day waiting period by authorizing a committee to hear or act on a bill if the bill, in the form to be considered by the committee, has been in print

and published on the Internet for at least 15 days. This bill contains other related provisions and other existing laws.

Position

Priority :

Total Measures: 62

Total Tracking Forms: 62

Agenda Item 6.B.ii

IHSS

Settlement of Oster v. Lightbourne

FOR IMMEDIATE RELEASE

Tuesday, March 19th, 2013

Contact:

Melinda Bird, (213) 213-8105

Paula Pearlman, (213) 736-8362

Elissa Gershon, (510) 267-1200

Anna Rich, (510) 663-1055 ext. 305

Settlement of IHSS Lawsuit will Prevent Devastating Cuts to Home Care Services

*Seniors and People with Disabilities Will Continue
to Receive IHSS without interruption;
Settlement Creates a Pathway for Full Restoration of all IHSS Cuts*

Lawyers representing IHSS consumers, unions and the State of California have reached a settlement that will prevent the implementation of devastating cuts to In-Home Supportive Services (IHSS). The settlement resolves a federal lawsuit, David Oster et al. v. Lightbourne (formerly V.L. v. Wagner). The settlement also resolves a second lawsuit challenging wage reductions for IHSS providers.

In the Oster lawsuit, IHSS recipients and their caregivers had won temporary court orders over the past 4 years that stopped the State from implementing cuts to IHSS. These cuts would have meant a significant reduction in hours, or complete disqualification from IHSS, for hundreds of thousands of current IHSS recipients. The State had appealed the earlier favorable court decisions, which meant that a higher court could allow the deep cuts in IHSS to go into effect. Finally, the settlement provides a pathway to stabilize the IHSS program with new revenue and the possibility of restoring all cuts in IHSS hours (including the 3.6% cut that went into effect in 2009) over the next two years.

In the settlement, the State has agreed to repeal and eliminate two major cuts to IHSS: (1) the 20% across-the-board reduction in IHSS hours from 2011, and (2) the termination or reduction in IHSS for many recipients based on their functional index score from 2009.

Instead, the settlement:

- Replaces the permanent 20% cut in IHSS hours with a temporary 8% cut in July 2013. (This is an additional 4.4% on top of the 3.6% current cut.)
- Reduces the cut to 7% (3.4% on top of the 3.6% current cut) in July 2014.
- Restores the hours lost from the 7% cut as early as the spring of 2015 if the State obtains federal approval of a provider fee which could bring significant new federal revenue to California.

- Commits any savings from retroactive federal approval of the new provider fee to fund a program to benefit IHSS recipients, such as the SSI Special Circumstances program, which was used to pay for refrigerators and stoves, rent to avoid eviction and other emergency needs but has not been funded in the budget for many years.

David Oster, lead plaintiff in the lawsuit said: "The uncertainty of the IHSS cuts was always in the back of my mind. If the cuts had gone into effect, I was worried that I would lose all my hours and not be able to stay in my home. The temporary cuts will be hard, but I know I will be able to remain at home and that is a relief."

The settlement also clarifies that IHSS consumers have a right to request a reassessment based on a change in circumstances, even if this change is not medical. The State has agreed to clarify that recipients will not be required to provide medical certification of a change in their medical condition to obtain a reassessment. This will help ensure that consumers who need additional hours will be able to obtain them.

Melinda Bird, Co-Litigation Director for DRC and lead counsel for Mr. Oster and other IHSS recipients in the case, said: "Although we won two court orders stopping the cuts temporarily, we faced a risk that these could be reversed in the next year and both the 20% cut and the functional index cuts could go into effect at the same time. That would have been unthinkable. The settlement was the best compromise to achieve long-term stability of the IHSS program and remove the uncertainty for our Class Members."

The lawyers representing IHSS consumers in the Oster case are Melinda Bird, Fred Nisen, Sujatha Branch, Maria Iriarte, Disability Rights California; Anna Rich, National Senior Citizens Law Center; Paula Pearlman, Disability Rights Legal Center; Jane Perkins, National Health Law Program; and the law firm of Charles Wolfinger. The 6 union plaintiffs in the case were represented by Altshuler Berzon LLP. The federal court in the Oster case must still approve the settlement.

The websites for each of the public interest law programs representing consumers will have up-to-date information about the settlement, copies of all court documents, and details about how to request additional information and submit objections to the settlement. See:

www.disabilityrightsca.org

www.disabilityrightslegalcenter.org

www.healthlaw.org

www.nsclc.org



CDCAN CDCAN DISABILITY RIGHTS REPORT
CALIFORNIA DISABILITY COMMUNITY ACTION NETWORK
#010-2013 – March 19, 2013 – Tuesday

BREAKING NEWS:

SETTLEMENT REACHED ON IHSS FEDERAL LAWSUITS

- ***Agreement With Brown Administration and Attorneys Representing IHSS Recipients and IHSS Workers Will Stop Implementation of Sweeping Permanent Cuts to Program***
- ***Settlement However Will Impose Temporary Cuts In IHSS Hours of 8% Beginning July 1, 2013 Falling to 7% in July 2014 and Ending June 30, 2015***

SACRAMENTO, CA (CDCAN) [Last updated 03/19/2013 05:34 PM] – The Brown Administration and attorneys representing persons with disabilities and seniors who are recipients of the In-Home Supportive Service (IHSS) program and unions representing IHSS workers reached a settlement today that resolves the pending major federal lawsuits filed in recent years to block cuts imposed under both Schwarzenegger and Brown Administrations dating back to 2009.

Disability and senior rights advocates say the settlement reached today will prevent the implementation of more permanent devastating cuts to the IHSS program and resolves multiple lawsuits blocking cuts to the program.

The settlement however will mean continuing – temporarily for two years – a smaller reduction in service hours for most IHSS recipients of 8% beginning in July 1, 2013, falling to 7% in July 2014. That reduction would end in 2015 with hours restored to those recipients, contingent on the State receiving additional new federal funding for IHSS.

The federal court in the Oster case must still approve the settlement, though that appears likely.

GOVERNOR'S PROPOSED BUDGET ASSUMED STATE WOULD PREVAIL IN COURT

Governor Brown's current and proposed State Budget assumed that the State would prevail in those lawsuits known as "David Oster et al. v. Lightbourne" and "Dominguez v. Schwarzenegger" and that at some point the sweeping reductions would go into effect as early as November this year. David Oster is an IHSS recipient. Will Lightbourne is the current director of the Department of Social Services – the state agency that oversees statewide the IHSS program administered locally by the counties.

The settlement reached today will mean those budget assumptions will need to be revised downward since the agreement calls for a much smaller reduction – though a reduction that would begin July 1, 2013 rather than November 2013.

The Governor will release, as required by state law, revisions to his proposed 2013-2014 released this past January 10th, in early May with updated revenue and spending actual figures and projections. The revisions are referred as the “May Revise” or the “May Revision”. The changes to the State’s projected spending for the 2013-2014 budget year resulting from today’s settlement on several IHSS lawsuits will be reflected in that revision.

IHSS PROGRAM SERVES OVER 450,000 PEOPLE

The In-Home Supportive Services Program helps pay for services – through funding from the federal Medicaid program (called “Medi-Cal” in California), the state and counties - provided to over 450,000 low income individuals over 65 years of age, or persons with disabilities (including developmental and those with autism spectrum disorders), persons who are blind so they can remain safely in their homes.

It is one of several key statewide programs (others include Medi-Cal long term services and supports such as Community-Based Adult Services, Multipurpose Senior Services Program, developmental services funded through 21 non-profit regional centers under the Department of Developmental Services) that protect the rights of children and adults with disabilities, mental health needs and seniors under several landmark federal and state laws and court decisions.

The types of services which can be authorized under the IHSS program include housecleaning, meal preparation, laundry, grocery shopping, personal care services, accompaniment to medical appointments, and protective supervision.

WHAT THE SETTLEMENT DOES

In the settlement, the Brown Administration has agreed to repeal and eliminate two major cuts to IHSS: the 20% across-the-board reduction in IHSS hours that was part of the 2011-2012 State, and the termination or reduction in IHSS for many recipients based on their functional index score that was part of the 2009-2010 State Budget. Also part of the settlement was eliminating the previous reduction by the State in providing funding – called “State participation” – for IHSS worker wages that would have meant a significant cut in wages.

The settlement reached by the Brown Administration and attorneys for the IHSS recipients and unions representing IHSS workers would do the following:

- Replaces the permanent 20% cut in IHSS hours (blocked by previous federal court) with a temporary 8% cut in that would begin July 1, 2013. (This is the 3.6% across-the-board cut in IHSS service hours that was scheduled to end June 30, 2013 but instead will be continued and increased by 4.4%.)
- Reduces that 8% cut to 7% (3.4% on top of the 3.6% current across-the-board reduction) in July 2014.
- Restores the hours lost from the 7% cut as early as the spring of 2015 if the State obtains federal approval of a long delayed IHSS provider fee which could bring significant new federal revenue to California.

- Commits any savings from retroactive federal approval of the new provider fee to fund a program to benefit IHSS recipients, such as the SSI Special Circumstances program, which was used to pay for refrigerators and stoves, rent to avoid eviction and other emergency needs but has not been funded in the budget for many years.
- The settlement also clarifies that people who are IHSS recipients have a right to request a reassessment based on a change in circumstances, even if this change is not medical. The Brown Administration has agreed to clarify that IHSS recipients will not be required to provide medical certification of a change in their medical condition to obtain a reassessment. Advocates believed that this clarification will help ensure that IHSS recipients who need additional hours will be able to obtain them.

BACKGROUND OF LAWSUIT

- In the Oster lawsuit, IHSS recipients and their workers had won temporary federal court orders over the past 4 years that stopped the State from implementing those cuts to IHSS.
- These cuts would have meant a significant reduction in hours, or complete disqualification from IHSS, for hundreds of thousands of current IHSS recipients.
- The Brown Administration had appealed the earlier federal court decisions, which meant that a higher court – either the US 9th Circuit Court of Appeals or the US Supreme Court could have reversed the lower court rulings and allowed the sweeping permanent cuts in IHSS to go into effect. The settlement, while not eliminating the reductions entirely, reduces the level of cuts significantly and casts those reductions as temporary.

COMMENTS FROM IHSS RECIPIENT, ATTORNEYS AND BROWN ADMINISTRATION

David Oster, an IHSS recipient, and lead person (plaintiff) filing the federal lawsuit said he was happy about the settlement because “...the uncertainty of the IHSS cuts was always in the back of my mind. If the cuts had gone into effect, I was worried that I would lose all my hours and not be able to stay in my home. The temporary cuts will be hard, but I know I will be able to remain at home and that is a relief.”

Melinda Bird, Co-Litigation Director for Disability Rights California (DRC) and lead counsel for Oster and other IHSS recipients in the case, comment that “...although we won two court orders stopping the cuts temporarily, we faced a risk that these could be reversed in the next year and both the 20% cut and the functional index cuts could go into effect at the same time. That would have been unthinkable. The settlement was the best compromise to achieve long-term stability of the IHSS program and remove the uncertainty for our Class Members [IHSS recipients].”

Will Lightbourne, director of the California Department of Social Services in a press statement said that the settlement “...is an example of all sides coming together for the good of the people we serve. This agreement captures budgeted savings, eliminates the cost, risk and uncertainty of litigation and creates stability and certainty to allow this vulnerable population to remain active in the communities in which they live.”

Toby Douglas, director of the Department of Health Care Services – the state agency that oversees the

state's Medicaid program (called "Medi-Cal") that provides most of the federal matching funds to the IHSS program, said that the settlement "...represents a significant compromise for all sides and preserves access to this important benefit."

ATTORNEYS REPRESENTING IHSS RECIPIENTS AND WORKS

The lawyers representing IHSS recipients in the David Oster v. Lightbourne lawsuit are:

- Disability Rights California: Melinda Bird, Fred Nisen, Sujatha Branch, Maria Iriarte
- National Senior Citizens Law Center: Anna Rich
- Disability Rights Legal Center: Paula Pearlman
- National Health Law Program: Jane Perkins
- Law firm of Charles Wolfinger.

The 6 IHSS worker union plaintiffs in the case were represented by Altshuler Berzon LLP.

The websites for each of the public interest law programs representing consumers will have up-to-date information about the settlement, copies of all court documents, and details about how to request additional information and submit objections to the settlement.

www.disabilityrightsca.org

www.disabilityrightslegalcenter.org

www.healthlaw.org

www.nscl.org

AGENDA ITEM 6.C

DETAIL SHEET

BILL NUMBER/ISSUE: Council Legislative and Policy Platform Review

SUMMARY: Review the 2011-2012 Legislative and Policy Platform for possible changes and adoption for 2013-2014.

BACKGROUND: N/A

ANALYSIS/DISCUSSION: N/A

COUNCIL STATE PLAN GOAL: Public policy in California promotes the independence, productivity, inclusion and self-determination of individuals with developmental disabilities and their families

PRIOR COUNCIL ACTIVITY: Adopted Legislative and Policy Platform for 2011-12

RECOMMENDATION(S): N/A

ATTACHMENT(S): 2011-2012 SCDD Legislative and Policy Platform

PREPARED: Mark Polit, March 22, 2013

2011-12 LEGISLATIVE and POLICY PLATFORM



The State Council on Developmental Disabilities (Council) is established by state (Lanterman Act at Welfare and Institutions Code, sections 4520) and federal law (Developmental Disabilities and Bill of Rights Act) to ensure that individuals with developmental disabilities and their families participate in the planning, design and receipt of the services and supports they need which allow increased independence, productivity, inclusion and self-determination. To that end, the Council develops and implements goals, objectives, strategies designed to improve and enhance the availability and quality of services and supports to individuals with developmental disabilities and their families.

The Council is comprised of 31 members appointed by the Governor, including individuals with disabilities, their families, federally funded partners and state agencies.

In addition to headquarters in Sacramento, the Council supports 13 area boards that provide services to individuals with developmental disabilities and their families including, but not limited to, advocacy assistance, training, monitoring and public information. By providing these services, area boards ensure that appropriate laws, regulations and policies pertaining to the rights of individuals are observed and protected. Each board participates in the development and implementation of the Council's goals and objectives.

The Council is active in promoting and responding to policy developments and changes that affect people with developmental

disabilities. This document conveys the Council's position on major policy issues that impact individuals with developmental disabilities and their families.

CONSUMER/FAMILY DIRECTED OPTIONS

Individuals with developmental disabilities and their families are best suited to identify and understand their unique needs and how best to address those needs. Options for self-determination/individual choice budgeting that provide resources for consumers and families to use in securing the services and supports that best meet their needs and reduce reliance on public social services must be developed and supported.

EMPLOYMENT

Integrated, competitive employment is the priority outcome for working age individuals with developmental disabilities. Strategies must be identified and pursued to assist individuals to achieve this goal.

HOUSING

Increase and enhance community integrated living options for individuals with developmental disabilities through access to housing subsidy programs and neighborhood education to reduced discrimination. Affordable, accessible, and sustained housing options must be continually developed.

HEALTH CARE

California has an obligation to assure that individuals with disabilities being transitioned into MediCal managed care have access to

plain language information and supports to make informed decisions about their health care options.

California must support individuals with developmental disabilities with co-existing health conditions that require routine preventative care, as well as mental health treatment and attention to women's health issues.

EDUCATION

The federal Individuals with Disabilities Education Act (IDEA) requires children with disabilities be provided with free appropriate public education to prepare them for advanced education, employment, and independent living. IDEA states to the "maximum extent possible" students with disabilities should be educated alongside their non-disabled peers. School districts/educational authorities need to be held accountable for implementing the letter and the intent of IDEA.

SELF-ADVOCACY

Individuals with developmental disabilities must be provided the opportunity and support to assume their rightful leadership in the system and society. Enhanced training, the use of plain language materials and inclusion in public-policy making activities must be developed and supported.

INCLUSION

Individuals with developmental disabilities must have access to community opportunities such as recreation, education, and socialization with their peers without disabilities.

TRANSPORTATION

Access to transportation is essential to the education, employment and inclusion of individuals with disabilities. Individuals with developmental disabilities must be a part of transportation planning and policymaking to assure their needs and perspectives are heard and addressed. Mobility training must be a standard program among public transportation providers to increase the use of public transportation and reduce reliance on more costly segregated systems.

VICTIMS OF CRIME

Individuals with developmental disabilities experience a greater rate of victimization and lower rates of prosecution for crimes against them than does the general public. The same level of due process protections must to be provided to all people. Individuals with disabilities need to be trained and supported in how to avoid becoming victims of crime and to understand how their participation in identification and prosecution can impact outcomes.

QUALITY OF SERVICES AND SUPPORTS

The financial commitment from the State of California must come with assurances that public monies are used to achieve desired outcomes for individuals with developmental disabilities and their families. Outcomes and satisfaction must be measured, and that information used to pursue individual and systemic change.

DETAIL SHEET AGENDA ITEM 7.A

ISSUE: Fair Labor Standards Act Companionship Exemption

SUMMARY: The US Department of Labor has issued a notice of proposed rulemaking that would narrow the definition of the “Companionship Exemption.” This would lead to the application of federal minimum wage and overtime rules to in home health and attendant services. Many disability advocates are concerned that minimum wage and overtime requirements would seriously disrupt the provision of services that keep people in the home and out of institutions. Many Civil rights, labor, and poverty advocates believe the proposed rule change would provide greater economic protections and dignity to a workforce that is largely women, people of color and immigrants.

BACKGROUND: In 1974, Congress sought to extend the minimum wage and overtime protections of the Fair Labor Standards Act to domestic workers. This was an attempt to elevate the economic status of a low wage workforce that was (and still is) largely female, people of color and immigrant. The law sought to mitigate the endemic poverty and reliance on government programs in these communities that resulted from economic exploitation.

The law recognized that many friends, relatives, and neighbors of people with disabilities and seniors served a companionship function involving little skilled work. Not wishing to interfere with these informal relationships and arrangements, the law specifically exempted domestic workers who served as companions. The Nixon Administration issued regulations that interpreted this “companionship exemption” very broadly, essentially exempting the whole home health and home care industry from the FLSA, these included workers who provided skilled supports and relied on these jobs for their livelihood. Organized labor, civil rights and poverty groups objected to this interpretation and there have been attempts during both the Clinton and Obama administrations to amend the regulations closer to what they view as the clear intent of Congress.

In the meantime, the practice and prevalence of in home attendant support has grown dramatically. In many states, these workers receive sub-minimum wage and no overtime. In California, these workers are protected by minimum wage, but have no overtime protections. The growth of home care and home health services has reduced the need for institutionalization, kept families together, and

provided dignity and opportunity for people with disabilities and seniors by making it possible to stay in their own homes and communities with families and friends. Over half of home care workers nationally are family members, with their wages making it possible for them to stay at home and care for their loved one.

The US Department of Labor issued proposed regulations over a year ago that would narrow the companionship exemption, thus making minimum wage and overtime protections applicable to services such as IHSS and Supported Living, as well as private pay attendant support.

ANALYSIS/DISCUSSION: IHSS, supported living and other in home services has grown and is funded in California under the current companionship exemption to overtime pay. Thus rate structures, fees, and staffing schedules are built around the assumption of no overtime pay. Should IHSS and supported living come under federal overtime protections, many fear significant disruption in staffing support and family caregiving arrangements.

In supported living, for example, federal overtime requirements would mean that agencies would have to pay overtime when a worker's hours exceeded 40 hours per week (note that state overtime laws would NOT be applied as a result of changes in federal regulation). Many workers could still work more than 40 hours on regular time due to exceptions in federal regulation – for example, if agencies (under state law) paid direct support workers for overnight shifts, federal law would not require overtime pay for the hours that workers are asleep. Thus disruptions in supported living staffing would occur, where agencies may avoid paying overtime by reducing hours worked by an individual or shift hours to include sleep hours.

It is very uncertain how this will affect IHSS. Details that will emerge in the final regulations may have a significant impact. The way the state and the counties implement federal regulation will also have an impact. Of special concern is for family caregivers who use income from IHSS to stay at home. Will counties prevent a mother, for example, from working more than 40 hours per week? Would a husband or a grown child be able to recognize the remaining hours as their income, circumventing a prohibition on overtime and keeping the income in the family? Would the mother be able to claim some of those hours are sleep hours, thus circumventing an overtime prohibition and retaining all the income? OR would overtime be allowed and rates adjusted allowing family members to earn significantly more – especially over time? There are so many questions and very few answers, largely because the regulations are not final and state and

local governments response is unknown, and may vary across political jurisdictions.

Public funding of services tends to adjust to the presence of minimum wage and overtime requirements. Yet, in times of fiscal restraint, those adjustments may take time. And in other parts of the country, many fear that conservative politicians may use increased minimum wage and overtime requirements as an excuse to reduce or eliminate in-home supports.

One year after the deadline for filing comments to the proposed rule, the complexity of the issues raised around the companionship exemption has apparently led to a delay in promulgation of the rule and continued talks with stakeholders.

COUNCIL STRATEGIC PLAN Goal: Public policy in California promotes the independence, productivity, inclusion, and self-determination, of individuals with developmental disabilities and their families.

PRIOR COUNCIL ACTIVITY: N/A

RECOMMENDATION(S): WATCH -- This is very very complicated. This issue has potentially profound implications for people with disabilities, seniors, the workers who support them and their local communities. In some ways the rights and aspirations of people with disabilities are pitted against the rights and aspirations of a workforce which is largely women, people of color and immigrants. In other ways, these interests are aligned, since better pay makes it easier to find and retain qualified direct support workers; and better pay will make it easier for family caregivers to remain at home.

ATTACHMENT(S): (1) Letter from National Council on Disability on Companionship Exemption. (2) Letter from labor, civil rights and poverty groups, (3) Letter from TASH, (4) Letter from the National Resource Center for Participant Directed Services.

PREPARED: Mark Polit, March 21, 2013

Letter to OMB about the Companionship Exemption

March 19, 2013

Brenda Aguilar
Office of Information and Regulatory Affairs
Office of Management and Budget
New Executive Office Building, Room 10235
725 13th Street, N.W.
Washington, DC 20503

RE: OMB Review of Department of Labor's Proposed Changes to the Application of the Fair Labor Standards Act to Domestic Service, RIN 1235-AA05

Dear Ms. Aguilar:

Thank you for meeting with the National Council on Disability (NCD) and members of the disability and aging communities on March 15, 2013, to discuss the Department of Labor's (DOL) proposed changes to the Companionship Exemption to overtime compensation under the Fair Labor Standards Act. The complexity of this issue is reflected in the extensive time that DOL, your office, and others have spent crafting and reviewing the proposed rule and the many opinions expressed to guarantee that consistent and fair standards of pay are ensured for the growing industry of companion and service provider caregivers. There is a clear concern expressed by consumers that the proposed rule will create changes that have a significantly adverse impact on the community of Americans with disabilities and seniors that rely on such services. Therefore, NCD urges OMB to require DOL to engage in further research and negotiation in order to fairly balance the complex needs of both the service providers and the disability and aging communities.

Our nation has a longstanding commitment to ensuring that individuals are afforded the opportunity live in the community with the appropriate supports, while addressing the growing costs associated with long-term service and supports. NCD acknowledged the many complex issues in its report, "The State of 21st Century Long-Term Services and Supports: Financing and Systems Reform for Americans with Disabilities":

NCD believes that America needs a coherent and comprehensive framework for its LTSS policies, programs, and funding based on five interrelated assumptions. First, that people who are elderly and people with disabilities both desire and deserve choices when seeking assistance with daily living that maintains their self-determination and maximum dignity and independence. Second, the current financing mechanisms (public and private) will become unsustainable in the near future without significant reform. The system must be affordable to all Americans regardless of income levels and must consider opportunities to leverage public and private support in new ways without impoverishing beneficiaries. Third, there is an opportunity with the

changing demographic picture of the United States to explore the possibilities of a universal approach to the design and financing of supports that is responsive to individuals under the age of 65, as well as Americans over 65 who may or may not have disabilities, without sacrificing individual choice and flexibility. Fourth, formal and informal caregiving must be sustained, including examination of family needs and workforce recruitment and retention challenges. Fifth, the approach to quality must examine consumer direction and control of resources in addition to traditional external quality assurance mechanisms.[1]

Consumer Concerns

NCD was alerted to the possible problematic impact of the proposed changes in July 2012, after stakeholders in the disability and aging communities came to NCD with their concerns. In August 2012, NCD met with DOL officials to discuss the concerns of the disability and aging communities. Subsequently, in October 2012, NCD requested that DOL engage in further dialogue with stakeholders, preferably through negotiated rulemaking, before proceeding further with the rulemaking process.

NCD held a roundtable discussion on January 30, 2013 which included more than thirty-five representatives from diverse perspectives on DOL's proposed changes. The disability and aging communities identified a number of concerns, including:

- affordability for people with disabilities and elders, particularly those who private pay, and the unintended impact of increased institutionalization;
- impact on publicly-funded programs and their inability to pay overtime;
- unique and informal nature of workers, many of whom are family or friends;
- unintended consequence of Medicaid agencies needing to limit the availability of home and community based services in order to comply with the proposed changes;
- DOL's 20 percent threshold and the need to delineate between professional providers and informal caregivers;
- proposed administrative requirements that will likely be difficult for people with disabilities and seniors to execute and administer;
- detrimental impact on the need for continuity of care;
- negative effects on live-in caregivers;
- negative impact on workers who will likely see a reduction in wages and may need to obtain additional jobs;
- increased risk of institutionalization as recognized in the DOL NPRM;
- increasing the cost of home and community based services without increasing the Medicaid rates or raising the Medicaid caps for available funding, resulting in a reduction of personal assistance, which could force people with significant disabilities to go without services or be forced into an institution;
- Medicaid programs that differ widely from state to state; the significant differences between the homecare system and consumer-directed programs; and
- potential negative impact on individualized supports currently available to adults with intellectual or developmental disabilities living within the community.

20 Percent Threshold

To follow up on our discussion regarding the proposed 20 percent threshold, NCD provides the following concerns regarding its potential detrimental impact if adopted. In most state Medicaid programs, caregivers are not typically career attendants; rather, they are usually family members and friends who are willing to help the individual who is in need of care. The disability and aging communities are concerned that the new definition of companionship services, especially the types of services that would be considered “incidental” and therefore limited to 20 percent of the caregiver’s time, would reduce the availability of family and friend caregivers, increase the strain on state home care systems, and threaten the consumer’s choice of provider. While we recognize DOL’s view that tasks more aligned with “homemaking duties” are not intended to be the primary functions of a companion, such services are, nevertheless, central to the provision of “fellowship and protection.” In fact, many of the services described by DOL as “incidental,” or even entirely excluded from companionship support, are the very ones a family member or informal caregiver might need to provide. That is, family and friends who function as paid caregivers routinely perform tasks such as dressing, grooming, toileting, feeding, doing the laundry, bathing, wound care, injections, blood pressure testing, and turning and repositioning. Additionally, contrary to DOL’s assertion, many of these personal care or health related services do not require “specialized training.” Many of the proposed “incidental services” are integral to the delivery of effective companionship services. DOL’s proposal to categorize and limit allowable services according to type of task is too restrictive and insufficiently captures the distinction between professional and nonprofessional caregivers. Therefore, NCD recommends that DOL work closely with Centers for Medicare & Medicaid Services (CMS), state agencies, providers, consumers and other stakeholders to further define the types of arrangements that may involve companions and non-professional caregivers, to ensure that the final rules do not jeopardize these valuable practices.

Concern has also been raised that the administrative burden related to the implementation and oversight of these provisions may prove to be excessive and ineffective. Consumers have said that as written, the rule would impose burdensome record-keeping requirements on the individual receiving services, the caregiver providing services, and the state funding and overseeing the quality of these services. Such an approach would be nearly impossible to administer, and quality assurance concerns could deter states from funding service arrangements that comport with the revised standards. NCD shares the concern that the rule’s administrative reporting requirements and thresholds for companions and live-in caregivers may be impractical to execute and administer. Accordingly, NCD recommends that DOL revise its approach for establishing a 20 percent threshold for “incidental services” in such a way that will reduce the administrative burden and more accurately reflect a holistic approach to addressing the needs of the disability and aging communities.

Further Engagement with the Disability and Aging Communities

NCD urges OMB and DOL engage in further discussion with stakeholders within the disability and aging communities before proceeding with the final steps of the proposed rulemaking process. NCD recommends the use of a negotiated rulemaking process to create further opportunities for direct dialogue with the disability and aging communities through the remainder of the drafting process, or proposing alternate means for continued engagement by the disability and the care providing communities to reach a balanced and equitable rule that respects

and reflects the needs and entitlements of both communities. The serious concerns that have been voiced indicate that further dialogue between DOL, care providers, and the disability and aging communities over the impact of these proposed rules will help reduce or eliminate confusion or misconstruction, and the availability and deep commitment and interest of these communities suggests that further engagement will benefit everyone.

There is clear precedent for negotiated rulemaking, or further consideration and input from stakeholders and experts at this time. Federal agencies regularly utilize negotiated rulemaking process. The NCD is available to assist in identification of experts and stakeholders who could help formulate guidance and elements of the proposed rule in concerted negotiation with care servers and other providers. We are readily available to support the DOL in continuing its engagement with the disability and aging communities to eliminate confusion about the potential impact of the rule, and possibly expand this analysis prior to taking final action on the proposed rule.

The disability and aging communities have specific information that which should become a formative part of the final rule. Consolidated sources of data on state consumer-directed programs have been published and are available, and can be accessed through contact with the National Council on Independent Living, ADAPT, and the Center for Personal Assistance Services. The government directed research and expert comment on this issue is also available from the Department of Health and Human Services and NCD. We would be delighted to assist in transmittal and consideration of the materials.

Conclusion

More work is necessary for the formulation and implementation of a solution that respects and fairly compensates personal care providers, while ensuring that supports and services for Americans with disabilities continue with efficiency, ease of access, and compassionate respect for personal dignity. NCD will continue to facilitate opportunities for further dialogue on the impact of these proposed rules and how they could be constructed to minimize the negative impact on people with disabilities and consumer directed personal assistance services. NCD encourages further consideration of research, consultation with experts, and facilitated discussion among all interested parties in order to ensure a clear, balanced and responsive solution to the issues justly addressed by the rule-making inquiry.

Thank you for your ongoing attention to this issue. Please do not hesitate to contact NCD through Joan Durocher, its General Counsel & Director of Policy, at (202) 272-2117 or jdurocher@ncd.gov if we may be of any further assistance.

Respectfully,

Jeff Rosen
Chairperson

March 19, 2012

The Honorable Tim Walberg
Chairman, Workforce Protections Subcommittee
House Education and the Workforce Committee
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Lynn Woolsey
Ranking Member, Workforce Protections Subcommittee
House Education and the Workforce Committee
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Walberg and Ranking Member Woolsey:

The undersigned organizations support the Department of Labor (DOL) for revising the rules (RIN 1235-AA05) on the “companionship exemption” under the Fair Labor Standards Act (FLSA), which currently denies the direct care workforce basic federal wage-and-hour protections.

This workforce provides daily supports and services to older Americans and individuals with disabilities who need assistance with personal care and activities of daily living. The work that home care workers and personal care attendants do is vitally important to the health, independence, and dignity of consumers who rely on paid services in their homes. Unfortunately, because of the current DOL regulations, over 1.7 million home care workers are not ensured minimum wage or overtime pay. As a result, wages for this workforce are depressed, earning them low compensation, often for long hours of work. The current federal minimum wage is \$7.25 per hour but one quarter of personal care aides earn less than \$6.59 per hour and one quarter of home health aides earn less than \$7.21 per hour. Nationwide, one out of every 12 low-wage workers is a direct care worker, and typical of a low-wage workforce, these home care workers are more likely to be uninsured, and nearly half receive public benefits such as Medicaid or food stamps.

During this economic recovery, we need to implement federal regulatory policies that fight poverty and promote access to quality care and the growth of quality jobs. The current DOL regulations broadly exempt this whole workforce. Such a sweeping policy is unsound, unfair, and undermines the economic recovery and our nation’s goals for quality long-term care. Extending basic minimum wage and overtime protections to most home care workers will improve the stability of our home care workforce and encourage growth in jobs that cannot be outsourced. Reducing turnover in this workforce will improve access to and quality of these much-needed services.

The work done by these home care workers and personal care attendants affirms the values of dignity and respect we have for our aging citizens and individuals with disabilities. It is time that we value this workforce, too. Now is not the time to delay regulations that would provide them with a small measure of respect – the protection of federal wage-and-hour rules.

We oppose efforts to delay issuing the final rule and we support increasing resources to expand in-home supports and services. Our nation faces many challenges to allow consumers and home care workers to live with dignity, respect and independence but the solution to providing these needed services is not to deny paid caregivers federal minimum wage and overtime protections.

9to5, National Association of Working Women
 Advocacy for Patients with Chronic Illness, Inc.
 AFL-CIO
 AFSCME
 Alliance for a Just Society
 Alliance for Retired American
 American Association of University Women (AAUW)
 American Civil Liberties Union
 American Federation of Government Employees (AFGE)
 American Federation of Teachers (AFT)
 American Rights at Work
 American Society on Aging
 Asian Law Caucus, Member of Asian American Center for Advancing Justice
 Asian Pacific American Legal Center, a member of the Asian American Center for Advancing Justice
 Association of University Centers on Disabilities (AUCD)
 Campaign for Community Change
 Caring Across Generations
 Center for Law and Social Policy (CLASP)
 Chicago Jobs Council
 Coalition of Labor Union Women
 Coalition on Human Needs
 Communications Workers of America (CWA)
 Community Action Partnership
 Cooperative Care
 D.C. Employment Justice Center
 Demos
 Direct Care Alliance
 Direct Care Workers of Color, Inc.
 Disciples Justice Action Network
 Equality State Policy Center
 Excluded Workers Congress
 Families USA
 Food Chain Workers Alliance
 Friends Committee on National Legislation
 Gray Panthers
 Health Care for America Now
 Indiana Care Givers Association
 Institute for Policy Studies
 Interfaith Worker Justice
 International Brotherhood of Teamsters
 International Union, United Automobile, Aerospace & Agricultural Implement Workers of America, UAW
 Jobs With Justice
 Lawyers' Committee for Civil Rights Under Law
 League of United Latin American Citizens

Legal Aid of Marin
 Legal Momentum
 MataHari: Eye of the Day
 MomsRising
 National Academy of Elder Law Attorneys, Inc. (NAELA)
 National Alliance for Direct Support Professionals
 National Consumer Voice for Quality Long-Term Care
 National Council of Jewish Women
 National Council of La Raza (NCLR)
 National Council of Negro Women (NCNW)
 National Council of Women's Organizations
 National Domestic Workers Alliance
 National Employment Law Project (NELP)
 National Employment Lawyers Association (NELA)
 National Gay and Lesbian Task Force Action
 National Hispanic Council on Aging
 National Partnership for Women & Families
 National Women's Law Center
 National Women's Health Network
 National Workrights Institute
 NCB Capital Impact
 NETWORK, A National Catholic Social Justice Lobby
 OWL-The Voice of Midlife and Older Women
 Paraprofessional Healthcare Institute (PHI)
 Partnership for Working Families
 Provincial Council of the Clerics of St. Viator (Viatorians)
 Raising Women's Voices for the Health Care We Need
 Sargent Shriver National Center on Poverty Law
 Service Employees International Union (SEIU)
 Sugar Law Center for Economic and Social Justice
 The Brazilian Immigrant Center
 The Iowa Statewide Independent Living Council (SILC)
 The Leadership Conference on Civil and Human Rights
 United Steelworkers (USW)
 Universal Health Care Action Network (UHCAN)
 USAction
 Virginia Poverty Law Center
 Voices for America's Children
 Voices for Progress
 Washington Community Action Network
 Wider Opportunities for Women
 Women Employed
 Working America



Equity, Opportunity, and Inclusion for People with Disabilities since 1975

March 21, 2012

Mary Ziegler
Director, Division of Regulations, Legislation, and Interpretation
U.S. Department of Labor, Wage and Hour Division
200 Constitution Avenue NW
Room S-3502, FP Building
Washington, DC 20210

RE: Notice of Proposed Rule Making on Regulatory Information Number (RIN) 1235-AA05

Dear Ms. Ziegler:

TASH is writing in response to the proposed changes concerning the Companionship rules administered by the U.S. Department of Labor (DOL) under the Fair Labor Standards Act (FLSA), which were posted for public comment on December 29, 2011 and to further clarify our concerns in relation to companionship services under the Fair Labor Standards Act.

First, we wish to acknowledge DOL's efforts to update the companionship exemption to reflect current times and ensure that direct support professionals (DSPs) providing critically important services in the homes of the elderly and persons with disabilities are paid appropriately and are not taken advantage of through an exaggerated use of the existing companion exemption. We also recognize that the proposed changes also come in response to the dramatic growth of the private home health and in-home care industries over the last thirty-six years since the rules were first promulgated, which have resulted in large profits in these sectors that have not been appropriately reflected in improved wages and protections of professionals providing these services.

TASH does have some concerns, however, that the proposed changes do not fully take into consideration the unique role of professionals who provide highly personalized supports to individuals with significant disabilities thus enabling them to live independently in their own homes. The level of individual support services for people with disabilities throughout the United States has also grown dramatically in the last ten years and will continue to expand as Medicaid waiver programs continue to focus on individualized services and supports, at the same time there are proposed reductions in funding for community programs supported by the Medicaid waiver. As such, it is important that the final rule clearly outline in more specific details those areas of the rule that may negatively impact the continued facilitation of these personalized supports for persons with disabilities.

For example, live-in roommates are often a major component of the support system of an individual with significant disabilities who live independently in their own home. Live-in roommates are available in the rare case of an emergency or for infrequent support needs, which the individual with a disability may occasionally require. Live-in roommates receive free or reduced rent and utilities in exchange for being a quality, dependable long term roommate who on occasion may provide a small amount of support to the individual at night. Initially, TASH was concerned that the proposed rule as originally crafted would require persons with disabilities and their intermediaries to pay live-in roommates for hours the roommate is sleeping in order to be compliant with the new rule. However, after raising these concerns with DOL, we were very appreciative of the agency for making changes to the draft rule to clarify that live-in roommates can be

exempted from the companionship rule during sleep time. As such, the rule now clearly reflects that wages do not need to be paid to these live-in roommates during sleep hours. Allowing live-in roommates as a category to be exempt from the new rule making assures that individuals are not forced to live in far more costly congregate settings. Requiring live-in roommates to be paid for sleep time would have greatly jeopardized successful agreements between individuals with significant disabilities and their live-in roommates, and unintentionally result in an unnecessary burden for all interested parties.

There are three additional areas that require further work in order to ensure that the final rule is written in such a way as to protect the individual relationships between individuals with significant disabilities and DSPs who provide personalized supports to these individuals to enable them to live independently in their own home:

20 percent Limitation on Incidental Duties

We feel the 20 percent limitation in relation to incidental duties may not necessarily be in synch with the present day supports required by people with disabilities. Given the diverse needs of individuals with significant disabilities who live in their own home, it is imperative that the limitation allows some flexibility with respect to the provision of supports for individuals with significant disabilities who are receiving personalized supports in their own home. Additionally, the rule provides no direction to states on how this component of the rule should be implemented or enforced. Such vagueness could create a myriad of challenges for state agencies tasked with creating a process for determining whether or not the 20 percent limitation is being followed, and would likely be quite costly to enforce.

Clarifying Definition of Third Party Employment

We ask that DOL clarify the definition of third-party employment including the functions a third-party employer might perform on behalf of an individual with a disability. This is critically important in situations where a third-party employer may be responsible for assisting an individual in the identification, hiring, and administrative management of DSPs. These third-party employers manage a variety of extremely individualized arrangements between the client with the disability and a DSP, but often are not directly involved in the daily interactions of these professionals and their clients. The proposed rule, as currently crafted, contains several requirements of third-party employers, some that may not necessarily be appropriate in the provision of personalized supports supporting the independent living of individuals with significant disabilities in their own homes. As such, it is very important that the final rule clearly define third-party employment and confirm those functions or services that can be performed by a third-party employer on behalf of an individual with a disability.

Medicaid Reimbursement

There is a strong concern among many disability advocates that the proposed rule changes may unintentionally cause a reduction in available consumer-directed supports and lead to greater institutionalization of persons with significant disabilities. Unfortunately, the proposed rule was not crafted with any additional federal guidance to ensure that public reimbursement rates (for example, Medicaid) that fund the majority of personalized supports to persons with significant disabilities increase to absorb the additional costs that will ensue with updating federal labor laws. Without this additional guidance to state Medicaid agencies, the additional cost burden will fall on the individual consumers with significant disabilities, who do not have the ability to pay for these services in the first place. This could have serious consequences for the provision of long term supports and services for people with significant disabilities. Thus, TASH believes that Medicaid Reimbursement rates must be increased in relation to the support needs of the individual with disabilities. We specifically ask that CMS review rates where individuals are affected by the new rule changes in relation to minimum wage and overtime requirements.

Conclusion

TASH appreciates the efforts of the U.S. Department of Labor to ensure that direct support professionals are paid adequately for their work. We believe the recommendations we have provided will strengthen the proposed rule by ensuring a more holistic policy that takes into consideration the unique relationships between individuals with significant disabilities receiving personalized supports and their DSPs. Additionally, we hope the Administration understands that a more comprehensive approach to this issue that ensure that Medicaid reimbursement rates are also updated to reflect the proposed changes to federal labor law. DOL, and the Administration as a whole, must ensure that the final rule does not result in any harm to individuals with significant disabilities that would lead to greater segregation, institutionalization, or poor quality care.

Thank you for considering our organization's feedback.

Sincerely,



Barb Trader
Executive Director
TASH



Application of the Fair Labor Standards Act to Domestic Service
Comments provided by the National Resource Center for Participant-Directed
Services

Mary Ziegler, Director
Division of Regulations, Legislation, and Interpretation
Wage and Hour Division
U.S. Department of Labor
Room S-3502
200 Constitution Avenue NW
Washington, DC 20210

RE: RIN 1235-AA05

Dear Ms. Ziegler:

The National Resource Center for Participant-Directed Services (NRCPS) would like to thank the Department of Labor (DoL) for the opportunity to comment on the Application of the Fair Labor Standards Act to Domestic Service (RIN 1235-AA05). The proposed changes to the companionship exemption will impact many participant-directed programs, where a large number of individuals receiving long-term services and supports (LTSS) employ their own domestic employees to remain as independent as possible in the community. We applaud the Department of Labor's effort in proposing these rules and are in support of the general direction and many of the changes put forth given that they continue to support people to maintain as much control as possible over their own services and supports and remain in their communities. Specifically, we support narrowing the requirements for a worker to qualify as a companion, as we believe that the exemption from minimum wage and overtime should be used sparingly, only for workers truly providing companionship services and not personal care. We encourage the Department of Labor to clarify certain components of the rules (as described below) and to provide reasonable notice before the proposed rules become law, as participants, states, and program providers will need time to adjust their programs to come into compliance.

The mission of the NRCPS is to "infuse participant-directed options into all home and community-based services by providing national leadership, technical assistance, education, and research, leading to improvement in the lives of individuals of all ages with disabilities." Participant-directed services, also known as consumer-directed or self-directed services, are home and community-based LTSS that help people of all ages across all types of disabilities maintain their independence and determine for themselves what mix of personal assistance supports and services work best for them. The NRCPS offers three membership tracks for different stakeholder groups involved with participant direction, including a track for participant direction program participants

(known as the National Participant Network), an FMS membership track for Financial Management Services (FMS) providers supporting participant direction programs, and a program membership track for state agencies administering publicly-funded participant direction programs. The National Participant Network (NPN) is a growing network that currently includes delegates from 31 states and 200 members who participate in self-direction programs across the country. The NPN holds monthly teleconferences and conducts extensive committee work to share best practices and to inform local and national participant direction policy. Our FMS membership, which currently includes 11 providers, and our program membership, which currently includes 11 states, have access to membership tools, resources, and policy forums to inform the effective development and expansion of participant direction.

Our comments are the result of extensive feedback from our three membership groups, additional stakeholders, and NRCPS staff with more than a decade of experience conducting research and providing technical assistance in participant direction. The NRCPS' commenting process included formal information sharing and feedback processes with all three membership groups and was overseen by our Public Policy Advisory Committee (which includes representation from our program membership and the National Participant Network). We have provided our comments in three parts for your convenience: key themes, philosophical comments, and comments by section.

Thank you once again for the opportunity to comment on the Application of the Fair Labor Standards Act to Domestic Service proposed rule. Please do not hesitate to contact us with questions.

Sincerely,



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Director, NRCPS
617-552-4039
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William A.B. Ditto
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Scott Goyette
Core Leader, NPN
802-310-8037
scgoyette@yahoo.com

Commenting Key Themes

Participant direction is a proven method for providing effective home and community-based long-term services and supports (LTSS). Participant-directed services, also known as consumer-directed or self-directed services, are home and community-based services that help people of all ages across all types of disabilities maintain their independence and determine for themselves what mix of personal assistance supports and services work best for them. There are currently 398 publicly funded participant-directed programs serving approximately 810,000 people across all 50 states and Washington, DC.¹ In addition to the listed funding sources in the notice of proposed rulemaking (NPRM), the Administration on Aging administers Community Living Programs in 28 states² and the Veteran's Health Administration oversees 65 Veteran-Directed Home- and Community-Based Services programs.³ The NRCPS created a National Inventory of data on publicly funded participant-directed programs in all 50 states and Washington, DC and can share that information with the Department of Labor as the rules and associated policies are further refined.

Research has also shown that individuals utilizing participant-directed services and directly hired workers had significantly reduced unmet personal care needs, were 90% more likely to be very satisfied with how they lead their lives, and experienced either equivalent or improved health outcomes when compared to randomly assigned peers receiving care from traditional home care agencies.⁴ The NRCPS is concerned that Jane Gross's description of participant-directed employment as a "grey market" or "over-the-back-fence network of women [who are] usually untrained, unscreened, and unsupervised, but more affordable without an agency's fee, less constrained by regulations and hired through personal recommendation"⁵ (page 68) is inaccurate. Our research indicates that 50-55 percent of directly-hired workers receive formal training. Directly hired workers have also been at least as likely to say that they felt well-informed about the individual's conditions and service needs as agency workers, and reported "modestly to substantially better outcomes for measures of satisfaction, worry, and physical and financial strain."⁶ Workers are not unscreened, either; Sciegaj & Selkow (2011) found that criminal background checks are required for workers in 85% of participant-directed programs nationally.

Restricting the application of the companionship exemption will lead to increased personal care costs, resulting in a reduction of the overall amount of long-term services and supports that an individual receives unless there is a commensurate increase in the individual's budget. In participant-directed programs where individuals control their own budgets, costs will increase for individuals with workers who no longer qualify for the companionship exemption. This

¹ Sciegaj, M., and Selkow, I. 2011. "Growth and Prevalence of Participant Directed Services: Findings from a National Survey of Publicly-Funded Participant-Directed Services Programs." Presentation at the Boston College, National Resource Center for Participant-Directed Services, 2011 Financial Management Services Conference, Baltimore, MD. <http://web.bc.edu/libtools/details.php?entryid=340>

² Administration on Aging. *Community Living Programs*. Retrieved from http://www.aoa.gov/Press_Room/Products_Materials/pdf/Community_Living_Programs.pdf

³ Sciegaj & Selkow, 2011

⁴ Carlson, B.L., Foster, L., Dale, S.B., & Brown, R. 2007. "Effects of Cash and Counseling on Personal Care and Well-Being." *Health Services Research*, 42, 467-487.

⁵ Gross, J., New Options (and Risks) in Home Care for Elderly. New York Times available at <http://nytimes.com/2007/03/01/us/01aides.html>. March 1, 2007.

⁶ Foster, L., Dale, S.B., & Brown, R. 2007. "How Caregivers and Workers Fared in Cash and Counseling." *Health Services Research*, 42, 523-527.

will force the individual to either receive fewer hours of personal care or reallocate funds from elsewhere in the budget, reducing the overall amount of services received. In programs where individuals do not control their own budgets, it is reasonable to assume that program administrators will also be forced to reduce the individual's allotted hours of personal care in order to prevent increases in costs. The potential impact of the proposed rules on cost and access to personal care services should be well understood and appropriately addressed to allow for adequate strategies to ensure any changes in labor laws do not negatively impact service delivery in both participant-directed and agency-provided long-term services and supports.

All stakeholders in participant-directed programs will need a reasonable time period to come into compliance with the updated regulations in order to prevent lapses in service, which could lead to negative health outcomes. Currently, some participant direction program service descriptions are developed to maintain compliance with existing companionship exemption rules. If the proposed rules are finalized, state and program administrators must update service codes and definitions and support individuals to adjust their service usage to maintain compliance with the new rules. FMS providers must institute new operations oversight rules and establish new monitoring systems. Some individuals will be forced to hire more workers or re-allocate their service funds to accommodate an increase in worker wages (therefore taking funds that are currently being used for other services and supports), and without sufficient time to do so will face gaps in coverage. Gaps in service can lead to negative health outcomes for individuals, or increased institutionalization. We recommend notifying the public of the proposed rules becoming law at least 12 months before enforcing compliance, allowing states and program participants to identify solutions that minimize a negative impact on existing service delivery.

Financial Management Services are almost always used in publicly-funded participant direction programs. Page 69 of the NPRM suggests that Medicaid has only two models of participant directed services: Public Authority and No Intermediary. This chart obfuscates a key component in participant direction programs including those with and without a Public Authority operating for collective bargaining purposes. While most participant direction programs do not utilize the public authority model and almost none operate without an intermediary, the vast majority of participant direction programs require individuals who employ workers to use a "Financial Management Services" provider. The Centers for Medicare and Medicaid Services (CMS) define Financial Management Services (FMS) as "*A service/function that assists the family or participant to: (a) manage and direct the distribution of funds contained in the participant-directed budget; (b) facilitate the employment of staff by the family or participant by performing as the participant's agent such employer responsibilities as processing payroll, withholding and filing federal, state, and local taxes, and making tax payments to appropriate tax authorities; and (c) perform fiscal accounting and make expenditure reports to the participant and/or family and state authorities.*"⁷

An FMS provider supports employment-related tax and insurance compliance for participants who directly hire their own workers and serve as their employers. FMS also support program fiscal accountability. FMS have been used to reduce the employer-related task burden for participants, allowing them to focus on managing other aspects of their long-term services and supports. Research has shown that by using an FMS provider, employees are paid in compliance with state

⁷ Centers for Medicaid & Medicare Services (2008). *Application for a §1915(c) Home and Community-Based Waiver [Version 3.5] Instructions, Technical Guide and Review Criteria*: Appendix C: Participant Services, Attachment: Core Services Definitions, Section D, Services in Support of Participant Direction, #2 Financial Management Services, p.176.

and federal tax, wage and hour laws.⁸ Participants prefer using the services of an FMS provider over being responsible for payroll themselves because using an FMS provider allows participants to be in compliance with applicable regulations, while the participants and their families can focus on managing their services, supports and care.⁹

It is unclear which party would be liable if the companionship exemption were violated in a participant-directed program. If an individual hires a worker to perform companion duties but has them perform tasks that do not qualify for the exemption, it is unclear which stakeholder—the individual, the FMS provider that issues payment, the public program that funds and makes the service available, or some other entity—is liable if the worker sues for minimum wage and overtime pay.

It is unclear which party holds the burden to prove the application of the companionship exemption. The regulations do not indicate whether the default assumption is that a worker qualifies for the companionship exemption and must prove otherwise or that a worker does not qualify and the employer must prove that they do. This distinction is important in the event an employer misclassifies his worker and a claim is brought against the employer.

⁸ Murphy, M., Selkow, I., & Mahoney, K.J. 2010. *Financial Management Services in Participant Direction Programs*. Retrieved from SCAN Foundation website: http://www.thescanfoundation.org/sites/scan.lmp03.lucidus.net/files/TSF_CLASS_TA_No_10_Financial_Management_Services_FINAL.pdf

⁹ *Ibid*,

Philosophical Comments from our National Participant Network

The National Participant Network (NPN) is a growing network that currently includes delegates from 31 states and 200 members who participate in participant direction programs across the country. The NPN holds monthly teleconferences and conducts extensive committee work to share best practices and to inform local and national participant direction policy. Members of the NPN were generally supportive of the proposed changes to the companionship exemption as a “move in the right direction”, but expressed the following philosophical concerns on the nature of the companionship exemption in general.

The continued existence of a companionship exemption (although narrower) could delegitimize an effort in place to professionalize careers in fellowship and protection. While the NPN supports the narrowing of the exemption as described in the first paragraph of these comments, the NPN desires the elimination of the exemption completely. By declaring that some workers are not entitled to the same wage and hour regulations as others, the exemption implicitly suggests that such careers are of a lower standing. Companionship is a critical service to many elders and people with disabilities, and in order to attract and retain responsible and high-quality employees to provide this service, wages must reflect the value of their support. The NPN believes that if a worker is compensated monetarily for performing a job, then they have a right to minimum wage.

Disallowing the companionship exemption for third party employers but not for directly hired workers creates an unjustified difference in treatment. The provision of minimum wage and overtime regulations for third party workers represents an inconsistent approach based solely upon who is directly hiring the worker. The NPN believes that wages should be determined based upon the value of the tasks performed. The idea that the same tasks are valued differently based solely upon the identity of the employer seems unjustifiable.

NRCPDS' Comments by Section

§552.6(a)

The NRCPDS and its members seek clarification on the scope of “companionship services” which are defined as “the provision of fellowship *and* protection for a person who, because of advanced age or physical or mental infirmity, is unable to care for themselves.” The use of the word “and” suggests that it is insufficient to provide either fellowship or protection alone, in absence of the other. We also seek further advisement on whether “protection” is intended to be preventive in nature; for example, it is unclear whether a worker periodically rotating a bed-bound individual to prevent bed sores would qualify as a companion. We suggest that if a worker must perform a non-medical service in the course of protection, such as rotating a bed-bound individual to prevent bed sores, that the worker still qualify as a companion, despite that duty not being incidental.

§552.6(b)

The NRCPDS supports the inclusion of the intimate personal care services listed in this section, and recommends the addition of mobility-oriented duties such as arm-holding during walking or supporting an individual with transfers.

§552.6(c)

While the exclusion of household work that benefits other members of the household under the exemption is reasonable, the NRCPDS and its members feel that some housework that incidentally benefits other members of the household may be required in the provision of protection. For example, it is possible that a worker will need to mop up a spill or clear a path in a room for a person to pass through safely.

§552.6(d)

The proposed rules suggest that a worker who is performing companionship services but has a particular certification, credential or license (e.g. a certified nursing assistant) is not eligible for the companionship exemption (page 24). We believe that the focus of the rule should be on the duties that the worker is hired to perform rather than his/her certifications or skills. If an individual with a particular certification chooses to provide companionship services and provides fellowship and protection in accordance with the minimal provision of incidental services and exclusion of medical care and household services, we suggest that a worker with such a certification qualify for the companionship exemption.

We also seek clarification regarding the exclusion of medical care that is “typically provided by personnel with specialized training” (page 22). Often in participant direction programs, particular training, such as First Aid or CPR, may be required by the program administration agency for all workers providing service in the program, regardless of duties performed. Within such programs, a worker providing companionship services may be required to complete, for example, First Aid training prior to providing service to a participant. It is unclear whether or not a program requirement for such training precludes the worker from qualifying for the companionship exemption or whether any training required for all workers in a publicly-funded program (regardless of specific duties performed) would qualify as specialized training as described in the NPRM. We suggest that if training requirements are limited and generally non-medical in nature, program requirements for training should not disqualify a worker from qualifying for the companionship exemption.

§552.109

The NRCPS seeks clarification on the availability of the companionship exemption in cases of joint employment of a worker by a third party employer and the individual receiving services. The Agency with Choice model of FMS in participant direction is based upon such a joint employment relationship wherein the agency joint employer handles all payroll, insurance and certain human resource duties such as filing and depositing taxes. The individual receiving services, the other joint employer, selects, trains, supervises and schedules the worker while the agency includes the individuals' selected workers as the agency's own employees on all tax and insurance paperwork. We understand the proposed regulations to stipulate that a third party employer would not qualify to use the exemption while the individual would. Given that the agency is responsible for the worker's payroll as approved by the individual receiving the services, it is unclear whether the agency is considered a third party employer. We seek clarity as to whether the exemption is available to the individual managing the worker.

We also seek clarification on the availability of non-family representatives in participant direction programs to utilize the exemption. In participant direction programs, occasionally the individual receiving services is not in a position to directly manage the employee(s) providing service. In these cases, the individual may designate a "representative" who will serve as the employer of the individual's workers and will train, schedule, and manage the workers. Most of the time, a representative is a family or household member of the individual. Occasionally, an individual will appoint a friend as his or her representative. In these cases, the individual will continue to receive services, but the friend will schedule, train, and supervise the workers. The friend will be listed on all paperwork as the employer. We do not believe that this constitutes the use of a third party employer because the representative is an extension of the person receiving services; the friend is merely operating in the individual's stead as the employer. The representative is not an employer making that companion available to other individuals. Classifying non-family representatives as third party employers would prevent those individuals with the weakest support systems from using the companionship exemption, thereby making it more difficult for those with the weakest support systems to get the companionship they need. We seek clarity as to whether an individual appointing a non-family, non-household member as his/her representative, who will operate as the employer, would preclude that individual's workers from meeting the requirements of the companionship exemption.

Conclusion

The NRCPDS and its members support the general direction of the proposed rules given that they continue to support people to maintain as much control as possible over their own services and supports and remain in their communities. Members of the NPN argue that while these rules are effective, they should be taken even further to allow all participant-directed workers access to the same labor rights as their agency worker counterparts. However, it is important to recognize the short-term budgetary impact upon programs, funders, and individuals receiving support resulting from the reclassification of workers that are no longer eligible for the exemption. This reclassification could lead to a decrease in worker hours or individual budgets. Therefore, the NRCPDS believes that any increases in wages and benefits resulting from the proposed rules should be linked to an increase in funding for LTSS.

Agenda Item 7.B

**FEDERAL BUDGET
UPDATE**

Board of Directors

Emeritus

Contact:

Statement by Robert Greenstein, President, On Chairman Ryan's Budget Plan

When House Budget Committee Chairman Paul Ryan released his previous budget last year, I wrote that for most of the past half century, its extreme nature would have put it outside the bounds of mainstream discussion. It was, I wrote, "Robin Hood in reverse — on steroids," because it would have produced the largest redistribution of income from bottom to top in modern U.S. history. Ryan's new budget is just as extreme. Its cuts in programs for low-income and vulnerable Americans appear as massive as in last year's budget, and its tax cuts for the wealthiest Americans could be larger than in last year's.

In addition, in critical ways the budget is exceedingly vague — and, as a result, its claim to reach balance in ten years is hard to take seriously. It leaves unspecified hundreds of billions of dollars in budget cuts as well as the several trillion dollars of needed tax expenditure savings to pay for its proposed deep cuts in income tax rates. Thus, the budget's fiscal claims rest on massive magic asterisks.

Consider the following:

Taxes

Last year, Ryan proposed to cut the top individual and corporate income tax rates from 35 to 25 percent, to cut other tax rates, and to eliminate the Alternative Minimum Tax (AMT). At the time, the Tax Policy Center estimated that these tax cuts would cost more than \$4 trillion over ten years. Since last year, however, the American Taxpayer Relief Act has returned the top individual tax rate to 39.6 percent, adding at least another \$400 billion to the cost now of cutting the top individual tax rate to Ryan's goal of 25 percent. Yet, the Ryan budget says that, somehow, the large cost of cutting the top rate to this level, cutting other rates as well, and eliminating the AMT would add *nothing* to the deficit. In essence, it uses a huge magic asterisk, assuming policymakers will finance the entire cost of cutting tax rates and eliminating the AMT by curbing tax expenditures — without identifying a single tax expenditure to narrow or close.

Governor Romney adopted a similar approach in his presidential campaign, arguing that he would use unspecified tax expenditure savings to offset the cost of cutting the top income tax rate from 35 percent to 28 percent, or by 7 percentage points. Analysis by the Tax Policy Center indicated that Romney could not do that without raising taxes on middle class and working poor Americans. Yet now, Ryan proposes to cut the top rate by as much as 14.6 percentage points, or more than twice as much as Romney proposed, while still claiming to finance it through tax expenditure reforms that policymakers would identify later.

Health Care

Ryan again proposes to repeal the coverage expansions in health reform (i.e., the Affordable Care Act or ACA) and cut Medicaid (and some smaller health programs) another \$756 billion on top of that. These two steps would cut over \$2.5 trillion, largely by greatly boosting the number of low- and moderate-income Americans who are uninsured.

Last year, the Urban Institute estimated that a very similar Medicaid block grant proposal in Ryan's previous budget would result in 14 to 21 million individuals losing their Medicaid coverage by 2022. In addition, the Congressional Budget Office has estimated that the ACA's coverage expansions will mean that 27 million Americans who otherwise would be uninsured will gain coverage by 2023.

Thus, under the Ryan budget, 40 to 50 million more poor or moderate-income Americans would be uninsured, even as the wealthiest Americans enjoyed new tax cuts.

As in his prior budgets, Ryan proposes to replace Medicare's guarantee of health coverage with a flat premium-support payment, or voucher, that beneficiaries could use to purchase either private health insurance or a version of traditional Medicare. Premium support would apply to all new beneficiaries starting in 2024 and to all other beneficiaries who chose to participate. Over time, premium support would significantly raise out-of-pocket health costs for many Medicare beneficiaries.

Over the next ten years, the Ryan budget would cut Medicare spending by a total of \$356 billion. His budget would save \$129 billion compared to current law from limiting medical malpractice awards, increasing income-tested premiums, and repealing the Medicare benefit improvements in health reform, including closure of the prescription drug "donut hole." Ryan's baseline includes \$138 billion in scheduled cuts from Medicare's sustainable growth rate formula for physicians and \$89 billion in Medicare cuts from sequestration, bringing his total Medicare reductions to the aforementioned \$356 billion.

Massive Cuts in Other Domestic Programs — with Deep Cuts Targeting the Poorest And Most Vulnerable Americans

Ryan's budget document makes clear that he again proposes severe cuts in Pell Grants to help low-income students afford college and in SNAP (formerly food stamps). He would freeze the maximum Pell Grant for 10 years, cancelling increases scheduled in law that are designed to keep up with inflation through 2017. Consequently, the maximum Pell Grant would fall substantially in purchasing power, and the budget would cut Pell Grants in other ways as well. In addition, the budget again proposes to cut SNAP substantially and replace it with a block grant at lower funding levels.

More generally, the document contains a stunning — and deeply disturbing — figure. It shows that the budget would cut mandatory programs *other than* Social Security, health care programs, civil service pensions, farm programs, and interest payments by about \$800 billion over ten years, relative to current law. This figure is alarming, since 70 percent of the spending in this budget category goes for programs for the needy and disadvantaged. Programs in the category, from which the \$800 billion in cuts would come, include:

- Pell Grants;
- SNAP;
- The Supplemental Security Income program (SSI) for the aged and disabled poor;
- School lunches and other child nutrition programs;
- The Earned Income Tax Credit and the low-income component of the Child Tax Credit; and
- Temporary Assistance for Needy Families.

Ryan's new budget, like last year's, apparently seeks to camouflage the severity of many of its cuts in programs for the needy by leaving most of this \$800 billion in cuts unspecified. The budget math shows, however, that most of these cuts likely would come from benefits and services for the least fortunate Americans.

Non-Defense Discretionary Programs and Defense

The Ryan budget effectively cancels the “sequestration” cuts in defense for all years starting in 2014 — while cutting non-defense programs substantially *below* sequestration levels.

If one starts from *post*-sequestration funding levels, as Ryan's budget documents do, his budget increases defense funding by about \$550 billion over ten years while cutting non-defense discretionary programs by about \$700 billion.

But many budget analysts, including ourselves and the Committee for a Responsible Federal Budget, prefer to measure budgetary changes from a *pre*-sequestration level. Doing so shows the budgetary changes that are needed to replace sequestration — which both parties say they favor — and still hit a given fiscal target.

Measured this way, the Ryan budget cuts non-defense discretionary (NDD) spending *by more than \$1 trillion below the level of the 2011 Budget Control Act caps*. Yet those caps already reduce spending in this category to its *lowest level on record as a share of GDP*, with data back to 1962. Moreover, Ryan's budget leaves most of these NDD cuts unspecified. He does not even assign them to broad budget categories such as education, transportation, natural resources, veterans, or law enforcement but, instead, leaves them as a big lump sum of unspecified cuts.

Cutting NDD this deeply will invariably have serious effects on:

- investments that can boost future productivity growth such as in education, infrastructure, and basic research;
- low-income families and individuals, since one-quarter of NDD funding goes for programs such as Head Start, WIC, child care, homelessness prevention, *services for frail elderly and disabled people*, *low-income housing*, Title I education, and the like; and
- state and local governments, since one-quarter of NDD funding goes to those governments to help them perform various functions.

A Display of Courage?

Chairman Ryan has at times received praise for having the courage to propose these policies. In reality, this budget reflects more of a lack of courage than an abundance of it.

Is it courageous to propose tax cuts but not identify a single tax expenditure to rein in? Is it courageous to target your deepest cuts on the poorest Americans, who vote in lower numbers and provide little in campaign contributions? Is it courageous to camouflage hundreds of billions in cuts for the poor and disadvantaged in broad budget categories without identifying the programmatic cuts, so that analysts, journalists, and other policymakers can't identify the specific cuts and assess their impacts?

What stands out, above all else, is Chairman Ryan's unwillingness to propose anything that would upset his party's base of supporters or, in particular, its ideological opposition to any revenue increases.

Paul Ryan is a smart and engaging individual. But, make no mistake: his budget is extreme. And, in its reverse Robin Hood policies, its ideological rigidity, and its calculated vagueness, it sadly reflects some of the worst features of American politics at this crucial time.

Don't let Washington Hurt People with Disabilities by Cutting Social Security Benefits

Some in Washington are pushing a budget proposal that would cut Social Security benefits by \$127 billion over the next 10 years. The "chained CPI" proposal would cut the yearly cost-of-living adjustment (COLA) for Social Security, leaving people with disabilities struggling to keep up with the rising cost of utilities, groceries, and health care. The chained CPI would be especially harmful to people with disabilities because they usually rely on Social Security payments starting at a younger age and for a longer period of time than retirees. The benefit cut under chained CPI would start now and grow over time, making it increasingly hard for them to afford to live in their homes and communities as they age. Washington should focus on finding responsible ways to address our nation's budget challenges, not cutting benefits for people with disabilities.

Top 5 reasons why the chained CPI would hurt people with disabilities

1. **People with disabilities can least afford a cut in benefits.** On average, people with disabilities receive only \$13,560 in yearly benefits and 37 percent depend on it for nearly all of their family income (90 percent or more).
2. **People with disabilities will face deep benefit cuts.** The chained CPI would cut benefits more with every passing year, and people with disabilities - who rely on Social Security payments starting at a younger age and therefore for many more years - will see very deep cuts in benefits over time. A 35-year-old disabled worker who receives average disability benefits would see his or her benefits reduced annually by \$886 at 65 and \$1,301 at 80.
3. **People with disabilities have a greater chance of falling into poverty.** Social Security keeps nearly 40 percent of people with disabilities age 18+ and their families out of poverty. The benefit cut would force those already living on tight budgets stretched by rising prescription drug, utility and health care costs to cut back on vital needs.
4. **It's less accurate.** The chained CPI assumes that when the cost of something you normally buy goes up, you will substitute a lower-cost item. This theory falls short since many people with disabilities spend a large share of their income (around \$4,200 a year on average for Medicare beneficiaries with at least one disability) on health care - which rises faster than inflation and doesn't have lower-cost substitutes.
5. **Disabled veterans would be hurt twice.** Since Social Security and veterans benefits will both be cut by the chained CPI, disabled veterans would be hurt twice. By age 65, a 30-year-old veteran with severe disabilities would see his or her veterans' benefits reduced by \$3,286/year and Social Security benefits reduced by \$1,655/year.

Call 1-800-323-2230 and tell Washington to reject any budget proposal that cuts hard-earned Social Security benefits.

Don't let Washington Hurt Women by Cutting Social Security Benefits

Some in Washington are pushing a budget proposal that would cut Social Security benefits, unfairly hurting women who rely more on Social Security to meet their basic needs, like paying for groceries, health care and heating bills as they age. The "chained CPI" proposal would change the yearly cost-of-living adjustment (COLA) for Social Security reducing benefits by \$127 billion over ten years. Women would be hit especially hard by "the chained CPI" because they typically live longer, rely more on income from Social Security, and are more likely to be poor than men. And it would get worse as they get older, because the cuts would start now and get bigger every year. Washington should focus on finding responsible ways to address our nation's budget challenges, not proposals that will hurt retired women and generations to come.

Top 5 reasons why the chained CPI would hurt women

1. **Women can least afford a cut in benefits.** Women earn less on average than men, are more likely to work part-time, and are more likely to have gaps in their employment. All these factors result in lower average annual benefits for women (about \$13,000) than men (about \$17,000).
2. **Women will face deeper cuts.** The chained CPI would cut benefits more with every passing year, and women will see a greater share of these cuts since they tend to live longer and make up a larger share of the population as it ages. More than two out of three (68 percent) Social Security beneficiaries age 85+ are women.
3. **Women rely more on Social Security for nearly all of their income.** Women are less likely to have other sources of retirement income, such as pensions and savings, and rely more on Social Security for nearly all of their income. In 2010, 38 percent of older women age 80+ that lived in a family receiving Social Security relied on it for 90 percent or more of their income, compared to 28 percent of older men age 80+.
4. **Social Security keeps women out of poverty.** In 2011, Social Security kept roughly 38 percent of older women out of poverty, compare to 32 percent of older men.
5. **It's less accurate.** The chained CPI assumes that when the cost of something you normally buy goes up, you will substitute a lower-cost item. This theory falls short since many seniors spend much of their money on basic goods like health care – items that rise faster than inflation and don't have lower-cost substitutes. The burden of health care spending is even greater for women (18.7 percent of income compared with 14.2 percent for men) because their benefits are lower and health care spending is higher.

Call 1-800-323-2230 and tell Washington to reject any budget proposal that cuts hard-earned Social Security benefits.

The Chained CPI Cuts
Social Security and SSI:
What Disability Advocates Need to Know

National
Policy
Matters



The Chained CPI Cuts Social Security and SSI: What Disability Advocates Need to Know

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Introduction

With Congress gearing up for more “fiscal cliff” battles this year, The Arc is concerned about threats to Social Security and Supplemental Security Income (SSI). These lifelines provide essential financial security for millions of Americans, including people with intellectual and developmental disabilities (I/DD). The Arc believes that Social Security and SSI should not be part of deficit reduction, and that any changes to these systems must be carefully evaluated in terms of their effects on beneficiaries. This issue of **National Policy Matters** looks at one major threat to Social Security and SSI, the chained Consumer Price Index (“chained CPI”).

- The chained CPI cuts Social Security and SSI benefits by reducing annual cost of living increases. Cuts add up significantly over time and would disproportionately harm people with disabilities.
- The chained CPI also cuts veterans pensions and certain military and civilian retirement benefits, and would limit eligibility for over 30 vital programs such as Head Start and the Low-Income Home Energy Assistance Program.
- The chained CPI has been considered as part of most major deficit reduction proposals over the last several years, and has at different times been supported by Members of Congress from both political parties and by the White House.
- The public strongly opposes cutting Social Security, including through the chained CPI.

Social Security & SSI: Lifelines for People with Disabilities

What is Social Security?

In the *words* of President Franklin Delano Roosevelt, our nation’s Social Security system was designed to provide for **“security of the men, women, and children of the Nation against certain hazards and vicissitudes of life.”** To accomplish this, Social Security provides income insurance that protects workers, their dependents, and survivors from poverty when a worker retires, dies, or loses the ability to engage in substantial work due to a significant disability. Nearly **57 million** people, or 1 in 5 Americans, receive Social Security Old Age, Survivors, and Disability Insurance (OASDI) benefits.



President Franklin Delano Roosevelt signs the Social Security Act of 1935.

Social Security vs. Private Pensions and Insurance

94% of U.S. workers covered

Social Security



51% of the workforce has no private pension coverage

Private Pensions



41% of civilian workers have no employer-based life insurance

Life Insurance



69% of civilian workers have no employer-based long-term DI

Disability Insurance



Sources: *Social Security Administration* and *Bureau of Labor Statistics*.

Social Security is financed by two dedicated Trust Funds, funded by payroll contributions paid by workers and their employers. People pay into Social Security during their working years, and generally become fully insured un-

der the system after about 10 years. Benefits are based on workers' average earnings during their years of work.

Why is Social Security necessary?

Social Security provides protections that most American workers cannot get from another source. Social Security insures nearly all U.S. workers for retirement, death, or a qualifying disability, but access to these types of insurance in the private sector is far less widespread.

What is Supplemental Security Income (SSI)?

Congress created SSI in 1972 to provide basic income support for low-income seniors and people with significant disabilities, to protect against poverty and help beneficiaries meet basic needs.

SSI is reserved for people with very low incomes and very limited assets (no more than \$2,000 for an individual or \$3,000 for a couple). Unlike Social Security, SSI has no requirement for a prior work history or prior contributions, as SSI is funded by general revenues.

Over **8 million** people receive SSI.

Social Security and SSI Beneficiaries as of Jan. 2013

Social Security:

- Over **56.9 million** beneficiaries
- Over **10 million** beneficiaries who qualify due to a disability
 - 8.8 million disabled workers
 - 255,000 disabled widow(er)s
 - 1 million **disabled adult children**
- About **2 million** children and spouses of disabled workers

SSI:

- Over **8 million** beneficiaries
 - 1.3 million disabled children under 18
 - 4.8 million disabled adults 18 to 64
 - 2.1 million seniors 65 and older

How do people with disabilities access Social Security and SSI?

People who qualify for Social Security or SSI on the basis of a disability must meet the Social Security Act's strict disability standard. They must have a severe disability that is expected to last one year or result in death, and that prevents them from engaging in substantial work, defined as earnings at or above the "substantial gainful activity" level, or *SGA level* (\$1,040 per month in 2013).

Additionally, many people with disabilities access the Social Security system in the same way as people without disabilities. This includes people with disabilities who worked during their adult years and now receive retirement benefits. This also includes people with disabilities who receive benefits because they are a spouse or dependent child of a worker who is retired, disabled, or deceased.

What parts of Social Security and SSI are important to people with disabilities?

All parts of Social Security and SSI are important to people with disabilities, who may access different benefits at different times in their lives. For example, a child may receive Social Security survivor's benefits after a parent dies, and then leave the system as an adult and work for many years. Later in life, that same person may reenter the system after acquiring a significant disability, and ultimately may transition to retirement benefits as a senior.

How are Social Security and SSI lifelines for people with disabilities?

Social Security and SSI benefits are modest, but play an essential role in helping beneficiaries preserve a basic living standard and alleviating poverty and hardship. Many people with disabilities rely on benefits for most or all of their income. Social Security makes up over *90% of total income* for nearly half of non-institutionalized Disability Insurance beneficiaries. Over *57% of SSI beneficiaries* have no other source of income.

Average Benefit, As of Dec. 2012

	Monthly	Yearly
Social Security:		
Disabled workers	\$1,130	\$13,560
Disabled widow(er)s	\$711	\$8,532
Disabled adult children	\$720	\$8,640
SSI:	\$520	\$6,240

People with disabilities typically use their benefits to pay for basic necessities such as food, housing, clothing, transportation, and out-of-pocket medical costs. For many, Social Security or SSI provides the income that allows them to secure housing in the community and live independently. Without Social Security or SSI, many beneficiaries would be at risk of severe hardship such as homelessness, institutionalization, hospitalization, or death.

How do Social Security and SSI benefits keep up with inflation?

Social Security and SSI benefits keep up with inflation through annual cost-of-living adjustments (COLAs). By law, the Social Security COLA is calculated using the Bureau of Labor Statistics Consumer Price Index for Urban Wage Earners and Clerical Workers (*CPI-W*).

COLAs protect the buying power of Social Security and SSI benefits, as prices rise. COLAs are particularly important to people who rely on their benefits, for whom every penny counts.

The Chained CPI Cuts Social Security, SSI, & other Vital Programs

One proposal that would cut Social Security, SSI and many other vital programs has received widespread attention over the last year: the chained CPI.

What is the chained CPI?

The chained CPI is an alternative CPI, calculated by the Bureau of Labor Statistics to take into account something called the “substitution effect.” The substitution effect says that as prices rise, consumers may adjust their spending by buying a cheaper product instead of a more expensive one.

However, the current CPI-W already takes into account some kinds of substitution that occur within categories of similar goods. For example, if the price of new luxury cars rises, consumers may buy new midrange or new compact cars instead. The chained CPI tries to account for what is called “upper level substitution” that works across categories. For example, if the price of new luxury cars rises, consumers may buy more used cars instead. As a result of the substitution effect, the chained CPI shows an increase that is on average about 0.3 percent lower than the CPI-W, each year.

Is the chained CPI less accurate for Social Security and SSI?

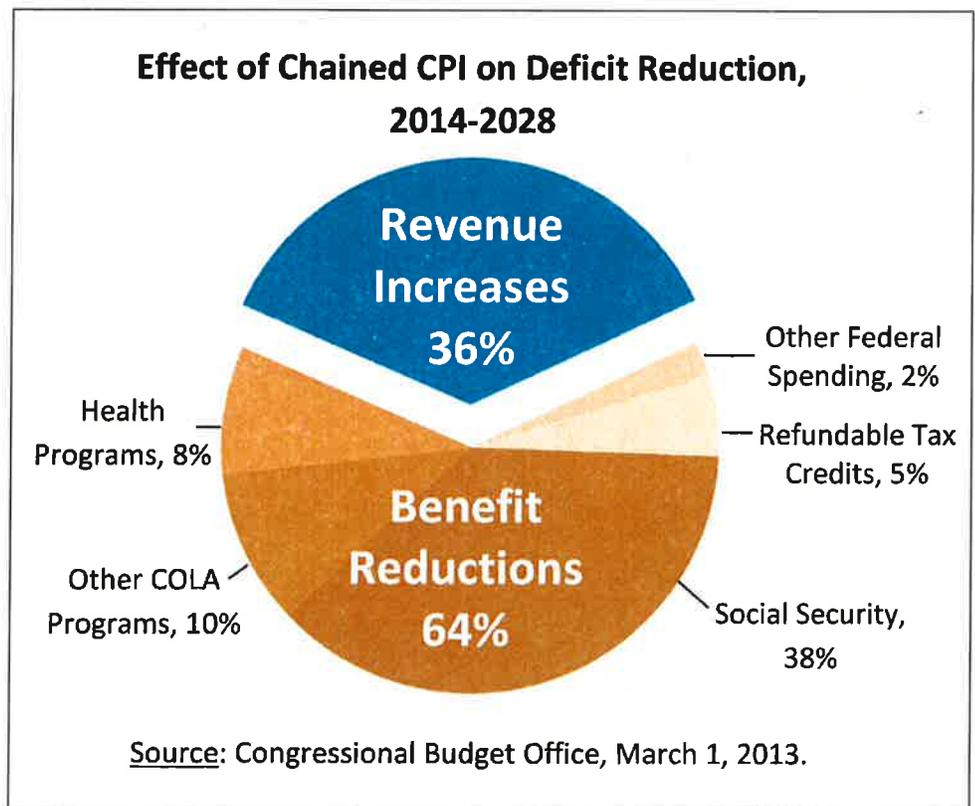
While the chained CPI may have value for upper and middle income urban consumers, many believe it is much less accurate for most Social Security and SSI beneficiaries who often rely

on their very modest benefits and have already economized as much as possible.

Their choice is not between a new car and a used car – many cannot afford to buy a car, at all. For many beneficiaries, the choice is not even between a brand-name drug and a generic drug, but between taking the full dose of a prescribed generic medicine or skipping a dose. Additionally, the chained CPI fails to adequately account for large annual health care cost increases faced by many seniors and people with disabilities.

Why is the chained CPI being considered as part of deficit reduction?

When applied government-wide, the chained CPI both cuts government spending and raises revenues. Largely because of this mix, the



chained CPI has been considered as part of most major deficit reduction proposals over the last several years (such as the proposal put forward by the co-chairs of the National Commission on Fiscal Responsibility and Reform, Erskine Bowles and Alan Simpson, and the proposal put forward by the Bipartisan Policy Center's Debt Reduction Task Force, also known as the Domenici-Rivlin plan). The chained CPI has at different times been supported by Members of Congress from both political parties and by the White House.

- **Spending cuts:** The chained CPI cuts benefits under Social Security and SSI, certain civilian and military retirement benefits, and veterans' pensions. It also limits eligibility for certain refundable tax credits and over 30 programs that use the federal poverty guidelines to determine eligibility. These spending cuts are discussed in more detail below.
- **Revenues:** The chained CPI raises revenues by increasing federal income taxes on some households. It does this by slowing the growth in the federal income tax brackets, which adjust annually for inflation. If the tax brackets rise more slowly, more people go into a higher tax bracket and pay taxes at a higher rate.

According to the *Congressional Budget Office* (CBO), over a 10 year period, shifting to the chained CPI would cut about \$216.1 billion from the federal budget – primarily through cuts to Social Security – and would raise about \$123.7 billion in new revenues – roughly, a 3 to 2 ratio of benefit cuts to revenues.

How would the chained CPI cut Social Security benefits?

The chained CPI cuts Social Security benefits by reducing the annual COLA. While in the first year, a COLA reduction of 0.3% is relatively small, the cut from the chained CPI is cumulative, getting bigger every year. For example, after 30 years the cut to the average Disability Insurance benefit is equivalent to losing roughly a full month's worth of benefits for the year.

Chained CPI: Estimated Sample Cut to 2011 Average Disabled Beneficiary Benefit (\$12,717 per year)

In year 10, a cut of...	\$331
In year 20, a cut of...	\$687
In year 30, a cut of...	\$1,034
In year 40, a cut of...	\$1,370

How would the chained CPI cut SSI benefits and limit eligibility?

The chained CPI cuts SSI in two ways.

First, the annual COLA reduction cuts SSI benefits in the same way as Social Security – benefit levels grow more slowly each year.

Second, whereas Social Security initial payments are based on a worker's earnings history, SSI initial payments are based on a federal benefit level that is adjusted annually based on the Social Security COLA. Using the chained CPI, the SSI federal benefit level will grow more slowly over time. As a result, SSI beneficiaries would see two benefit cuts from the chained CPI – one to their initial payments, and a second to the annual increase in benefits.

Additionally, under the chained CPI, fewer people would qualify for SSI because over time the SSI income limits would be lower than under the CPI-W. As with benefit cuts, reductions in the SSI eligibility standard would start out small, but would be cumulative and grow larger as the years go by.

Chained CPI: Estimated Sample Cut to Average SSI Benefit (\$6,310 per year as of Jan. 2013)

In year 10, a cut of...	\$164
In year 20, a cut of...	\$341
In year 30, a cut of...	\$513
In year 40, a cut of...	\$680

How would the chained CPI cut benefits and limit eligibility in other vital programs?

The chained CPI would cut benefits under vital programs including the Veterans' Pension Benefit Programs, the Railroad Retirement Board Programs, the Civil Service Retirement System, and the Military Retirement System. It would also likely cut benefits paid to veterans with disabilities and their survivors (Veterans' Disability Compensation; Dependency and Indemnity Compensation for Survivors); these benefits receive a COLA enacted each year by Congress that is equal to the Social Security COLA.

Additionally, if applied government-wide, over time the chained CPI would limit eligibility and lower the maximum benefit for the Earned Income Tax Credit (EITC), an important tax credit for working people who have low to moderate income. It would also limit access to *over 30 vital programs* that use the federal poverty guidelines as the basis for their income eligibility thresholds. The federal poverty guidelines adjust annually using an inflation index. If the chained CPI is applied to the federal poverty guidelines, fewer people will be able to qualify for programs that use these guidelines to set their income standards.

Affected programs include:

- Children's Health Insurance Program (CHIP) and parts of Medicaid;
- Supplemental Nutrition Assistance Program (SNAP, formerly known as food stamps);
- Special Supplemental Nutrition Program for Women, Infants, and Children (WIC);
- National School Lunch Program and National School Breakfast Program;
- Head Start; and
- Low-Income Home Energy Assistance Program.

Finally, if applied government-wide the chained CPI would alter various beneficiary income-related special assistance programs, provider payments, and provider collections under Medicare and Medicaid. Net cuts to health programs would total about \$28.5 billion over 10 years, according to *CBO*.

How would the chained CPI harm beneficiaries, including people with disabilities?

As discussed earlier, Social Security and SSI benefits are already extremely modest and annual COLAs are essential to helping beneficiaries live in the community and meet their basic needs. Cuts under the chained CPI could force many people to make difficult choices, such as whether to buy all the food they need or to instead refill an essential prescription.

For example, the National Women's Law Center *estimates* that under the chained CPI, a single elderly woman receiving Social Security benefits would be able to afford food for 3 fewer days at age 70, for 7 fewer days at age 80, and for 13 fewer days at age 90. People with disabilities would face similar challenges because, as noted earlier, they often rely on benefits for most or all of their income. Additionally, people with disabilities often receive benefits for longer than other beneficiaries – so they would feel the cuts from the chained CPI for longer and more deeply.

Finally, the benefits provided under programs like the EITC, CHIP, Medicaid, Medicare, SNAP, WIC, the school meals programs, and LIHEAP are often essential to helping people with disabilities and their families meet their basic needs. Reductions in eligibility or benefits could mean that some go without necessary food, utilities, or health care.

Do Americans oppose cutting Social Security using the chained CPI?

Yes. In a recent *poll* by Americans for Tax Fairness, 65 percent of respondents oppose cutting Social Security benefits through the chained CPI.

This finding is consistent with other national surveys which have repeatedly shown that Americans overwhelmingly support preserving Social Security and strengthening benefits. Most recently, in a new *survey* by the National Academy of Social Insurance (NASI) respondents shared their strong beliefs:

- 89% believe that "Social Security benefits now are more important than ever...";
- 84% don't "mind paying Social Security taxes

because it provides security and stability to millions...”; and

- 75% believe “we should consider increasing Social Security benefits.”

NAI asked survey respondents to consider 12 possible policy packages to strengthen Social Security. The packages had different combinations of cutting or increasing benefits and reducing or increasing Social Security’s dedicated funding. The most favored package – supported by over 7 in 10 respondents – would actually increase the Social Security COLA so that it better reflects beneficiaries’ daily living expenses.



The Arc’s CEO, Peter V. Berns, speaks at a Capitol Hill press conference on the chained CPI in January, 2013. At left is U.S. Senator Sheldon Whitehouse from Rhode Island.

What is The Arc’s response to the chained CPI?

The Arc knows that Social Security and SSI are lifelines for people with disabilities, women, low-income seniors, veterans, and other vulnerable beneficiaries.

We strongly oppose cuts to these and other vital supports, including under the chained CPI. Benefits are minimal, and many people cannot afford any cuts in their basic income that goes to pay for essential housing, food, and medical costs. The Arc knows that the impact of the chained CPI would be real and painful, and we firmly believe this is not the way to balance the budget.

The Arc is working hard to educate policymakers about the importance of Social Security and SSI to people with disabilities, including people with I/DD. We have joined with other national groups and coalitions to urge policymakers to reject the chained CPI as a harmful benefit cut.

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