

BILL EMMERSON
Vice Chair

JOEL ANDERSON
JIM BEALL
TOM BERRYHILL
MARTY BLOCK
MARK DeSAULNIER
LONI HANCOCK
HANNAH-BETH JACKSON
WILLIAM W. MONNING
JIM NIELSEN
CURREN D. PRICE
RICHARD D. ROTH
LOIS WOLK
RODERICK D. WRIGHT
MARK WYLAND



California State Senate

COMMITTEE
ON
BUDGET AND FISCAL REVIEW

ROOM 5019, STATE CAPITOL
SACRAMENTO, CA 95814

Mark Leno, Chair

STAFF DIRECTOR
KEELY BOSLER

DEPUTY STAFF DIRECTOR
MARK IBELE

CONSULTANTS
MICHELLE BAASS
KIM CONNOR
CATHERINE FREEMAN
JOE STEPHENSHAW
JENNIFER TROIA
BRADY VAN ENGELEN

COMMITTEE ASSISTANT
GLENDA HIGGINS
MARY TEABO

(916) 651-4103
FAX (916) 323-8386

Agenda

May 9, 2013

8:30 a.m. - Room 4203

<u>BILL</u>	<u>AUTHOR</u>	<u>SUBJECT</u>
S.B. 67	Budget and Fiscal Review	In-home Supportive Services
S.B. 68	Budget and Fiscal Review	Budget Act of 2012

SENATE COMMITTEE ON BUDGET AND FISCAL REVIEW
Mark Leno, Chair

Bill No:	SB 67
Author:	Budget and Fiscal Review
As Amended:	May 7, 2013
Consultant:	Jennifer Troia
Fiscal:	Yes
Hearing Date:	May 9, 2013

Subject: Budget Act of 2012: In-Home Support Services (IHSS)

Summary: Statutory changes needed to effectuate a settlement agreement reached by plaintiffs and the Administration in several lawsuits against the state based on reductions to the IHSS program enacted in recent years.

Background: Among several other changes to IHSS that were adopted in the past four budgets, and that have taken effect, a 3.6 percent across-the-board reduction in authorized hours for all recipients has been in effect since the 2010-11 fiscal year. This reduction is currently scheduled to expire on June 30, 2013.

In 2010-11, the budget also included savings that would have resulted from enhanced federal funding obtained as a match on revenues the state expected to receive and use to fund IHSS from extending the sales tax to support services, including IHSS. IHSS providers would have received a supplemental payment equal to the amount of their new tax liability. The Department of Health Care Services submitted its plan to implement this funding mechanism to the federal government, but the state has still not received a formal response.

As summarized in the chart below, several additional reductions to the IHSS program made in the last four state budgets were enjoined by federal courts from taking effect.

Policy	Name of Lawsuit Enjoining Policy from Taking Effect
Loss of eligibility for individuals with assessed needs below specified thresholds	<i>Oster (V.L.) v. Lightbourne, et al. (Oster I)</i>
Across-the-board reduction of 20 percent of authorized hours, with exceptions as specified	<i>Oster (V.L.) v. Lightbourne, et al. (Oster II)</i>
Reduction in state participation in provider wages (from maximum of \$12.10 to \$10.10 per hour)	<i>Dominguez v. Schwarzenegger, et al.</i>

In March 2013, the Administration and plaintiffs in these cases reached a settlement agreement, which a federal district court has tentatively approved. This bill reflects the language proposed to effectuate the settlement agreement, with some technical, non-substantive changes.

Proposed Law: This bill:

- 1) Repeals the provisions underlying the reductions at issue in the lawsuits settled by the agreement, including:

- a) Provisions that had required the State Department of Social Services (DSS) to implement, under specified circumstances, a 20 percent reduction in authorized hours of service for each IHSS recipient, beginning January 1, 2012, except as specified.
 - b) Provisions that had reduced the state contribution to IHSS provider wages and benefits from a maximum of \$12.10 per hour to \$10.10 per hour, effective July 1, 2009.
 - c) Provisions that had established a stricter threshold of need to receive IHSS hours based on a recipient's assessed functional index score (requiring IHSS recipients to have an overall functional index score equal to or greater than 2 on the 5-point scale in order to qualify).
 - d) Provisions that had established a stricter threshold of need to receive domestic and related care services, such as housework, meal preparation, and laundry (requiring a functional index ranking greater than 4 for each activity in order to receive service hours).
- 2) Establishes an across-the-board reduction of eight percent in authorized hours of IHSS that would apply to all recipients for a period of 12 months, starting July 1, 2013;
 - 3) Establishes an ongoing, across-the-board reduction of up to seven percent in authorized hours of IHSS that would apply to all recipients upon the expiration of the eight percent reduction described above, unless it is triggered off, in whole or in part, by an "assessment" on home care services, including IHSS, which results in enhanced federal funding for IHSS.
 - 4) Specifies with respect to these across-the-board reductions that:
 - a) They shall be applied to the recipient's hours as authorized pursuant to the most recent assessment, and, if applicable, shall be taken first from any documented unmet need.
 - b) IHSS recipients may direct the manner in which the reduction of hours is applied to previously authorized services.
 - c) If a recipient requests a reassessment based only on the eight or seven percent reductions, his/her request can be administratively denied. At the same time, this bill reiterates existing law that a county shall assess a recipient's need for supportive services any time the recipient notifies the county of a need for adjustment or when there are other indications of a change in circumstances that affects the recipient's need for services.
 - d) The notices of action informing recipients of the eight and seven percent reductions shall be mailed at least 10 and 20 days, respectively, prior to the reduction taking effect and include specified information.
 - e) Recipients continue to have all appeal rights as otherwise provided under existing law.
 - 5) Establishes the intent of the Legislature to enact an assessment on home care services, including IHSS, to offset the up to seven percent reduction described above.
 - 6) Specifies that, to the extent that the assessment is implemented retroactively, any resulting funds shall be used to provide one-time direct reinvestments benefiting IHSS recipients that do not create ongoing General Fund obligations. Further, specifies that the fund created to receive those retroactive resources shall be continuously appropriated after specified notice or legislative approval requirements, as applicable, are met.

- 7) Specifies that the departments of Health Care and Social Services may implement and administer its provisions through all-county letters or similar instructions until regulations are adopted, as specified.
- 8) Makes an appropriation and declares that the measure is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Fiscal Effect: The Administration estimates that the eight and seven percent across-the-board reductions in 2013-14 and 2014-15 would save approximately \$160 million General Fund and \$159 million General Fund, respectively.

Support: Unknown

Opposed: Unknown

AMENDED IN SENATE MAY 7, 2013

SENATE BILL

No. 67

Introduced by Committee on Budget and Fiscal Review (Senators Leno (Chair), Anderson, Beall, Berryhill, Block, DeSaulnier, Emmerson, Hancock, Hill, Jackson, Monning, Price, Roth, Wright, and Wyland)

January 10, 2013

An act relating to the Budget Act of 2013 to amend Sections 12306.1 and 12309 of, to add Sections 12301.01, 12301.02, 12301.03, 12301.04, and 12301.05 to, and to repeal Sections 12301.07 and 12309.2 of, the Welfare and Institutions Code, relating to public social services, and making an appropriation therefor, to take effect immediately, bill related to the budget.

LEGISLATIVE COUNSEL'S DIGEST

SB 67, as amended, Committee on Budget and Fiscal Review. ~~Budget Act of 2013.~~ *In-home supportive services.*

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 to permit them to remain in their own homes and avoid institutionalization. Existing law requires the State Department of Social Services to implement, under specified circumstances, a 20% reduction in authorized hours of service to each IHSS recipient, beginning January 1, 2012, except as specified.

This bill would delete those provisions.

Existing law requires the department, until July 1, 2013, to implement a 3.6% reduction in authorized hours of service to each IHSS recipient, as specified.

This bill would require the department, from July 1, 2013, to June 30, 2014, inclusive, to implement an 8% reduction in authorized hours of service to each IHSS recipient, as specified. The bill would authorize a county to administratively deny a request for reassessment based only on that reduction. The bill would require a specified notice to be mailed to the recipient at least 10 days before the reduction goes into effect. The bill would also require the department, beginning July 1, 2014, to implement a 7% reduction in authorized hours of service to each IHSS recipient, as specified. The bill would require a specified notice to be mailed to the recipient at least 20 days before the reduction goes into effect.

This bill would state the intent of the Legislature to authorize an assessment on home care services, including, but not limited to, home health care and in-home supportive services. This bill would require the Director of Finance, within 30 days after receipt of specified certification from the State Department of Health Care Services, to, among other things, estimate the total amount of additional funding that would be derived from that assessment for the next fiscal year and calculate, as a percentage, the amount by which the 7% reduction in authorized hours of service for each IHSS recipient is offset by General Fund savings from that assessment. The bill would require the department to perform these activities for the fiscal year that the certification is received and the following fiscal year, and on or before May 14, prior to the 3rd fiscal year after the certification is received. The bill would require the 7% reduction in authorized hours of services to be mitigated by the percentage offset determined by the Director of Finance, as specified. The bill would provide for these provisions to become operative only upon certification by the State Department of Health Care Services that any necessary federal approvals have been obtained.

This bill would create the In-Home Supportive Services Reinvestment Fund to receive moneys to the extent that the assessment is implemented retroactively, and use those moneys to provide goods or services for one-time direct reinvestments benefiting IHSS recipients, as prescribed. The bill would require the Director of Finance to consult with specified plaintiffs to develop a plan to reinvest those funds, and require that plan to be submitted to the appropriate policy and fiscal committees of the Legislature. The bill would require the Director of Finance to provide specified notice to the Joint Legislative Budget Committee at least 30 days prior to allocating any of those funds, as prescribed. The

bill would, subject to specified conditions, continuously appropriate the moneys in the fund to the department for these purposes.

Existing law authorizes a county board of supervisors to elect to contract with a nonprofit consortium to provide for the delivery of IHSS or to establish a public authority to provide for the delivery of IHSS. Under existing law, the state is required to pay 65%, and the county 35%, of the nonfederal share of wage and benefit increases negotiated by a public authority or nonprofit consortium, as specified. Existing law, operative July 1, 2009, requires the state to participate in those wage and benefit increases in a total cost of wages up to \$9.50 per hour and in individual health benefits up to \$0.60 per hour. Existing law provides that those provisions establishing those rates of participation shall not be implemented until July 1, 2012, and shall only be implemented if specified conditions are met.

This bill would delete those latter provisions.

Under existing law, the department is required to develop a uniform needs assessment tool to assure that IHSS are delivered in all counties in a uniform manner. Existing law requires the uniform needs assessment tool to evaluate the recipient's functioning in activities of daily living and instrumental activities of daily living and quantifies the recipient's functioning ranks using a general 5-point scale for ranking each function, as specified. Under existing law, beginning September 1, 2009, only individuals who are ranked at a 4 or 5 in the activity of daily living relating to a domestic or related service are eligible for that service, except as specified.

This bill would delete those latter provisions.

Under existing law, beginning September 1, 2009, eligibility for IHSS shall also include functional index scores, which are assigned to a recipient as a weighted average based on his or her individual functional index rankings. Existing law, except as specified, provides that individuals with certain functional index scores are not eligible for IHSS.

This bill would delete those provisions.

The bill would appropriate \$1,000 from the General Fund to the State Department of Social Services for its administrative costs during the 2013–14 fiscal year. The bill would require the State Department of Social Services and the State Department of Health Care Services to adopt emergency regulations to implement the bill's provisions, as specified.

This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

~~This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2013.~~

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

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

1 SECTION 1. Section 12301.01 is added to the Welfare and
2 Institutions Code, to read:

3 12301.01. (a) (1) Notwithstanding any other law, except as
4 provided in subdivision (d), the department shall implement an 8
5 percent reduction in hours of service to each recipient of services
6 under this article, which shall be applied to the recipient’s hours
7 as authorized pursuant to the most recent assessment. This
8 reduction shall become effective July 1, 2013. This reduction shall
9 be effective for 12 months. The reduction required by this section
10 shall not preclude any reassessment to which a recipient would
11 otherwise be entitled. However, hours authorized pursuant to a
12 reassessment shall be subject to the 8 percent reduction required
13 by this section.

14 (2) A request for reassessment based only on the reduction
15 required in paragraph (1) may be administratively denied by the
16 county.

17 (3) A recipient of services under this article may direct the
18 manner in which the reduction of hours is applied to the recipient’s
19 previously authorized services.

20 (4) For those individuals who have a documented unmet need,
21 excluding protective supervision because of the limitations on
22 authorized hours under Section 12303.4, the reduction shall be
23 taken first from the documented unmet need.

24 (b) The reduction in hours of service pursuant to paragraph (1)
25 of subdivision (a) shall cease to be implemented 12 months after
26 the reduction takes effect.

27 (c) The notice of action informing the recipient of the reduction
28 pursuant to subdivision (a) shall be mailed at least 10 days prior
29 to the reduction going into effect. The notice of action shall be
30 understandable to the recipient and translated into all languages
31 spoken by a substantial number of the public served by the In-Home

1 *Supportive Services Program, in accordance with Section 7295.2*
2 *of the Government Code. The notice shall not contain any recipient*
3 *financial or confidential identifying information other than the*
4 *recipient's name, address, and Case Management Information*
5 *and Payroll System (CMIPS) client identification number; and*
6 *shall include, but not be limited to, all of the following information:*

7 (1) *The aggregate number of authorized hours before the*
8 *reduction pursuant to subdivision (a) and the aggregate number*
9 *of authorized hours after the reduction.*

10 (2) *That the recipient may direct the manner in which the*
11 *reduction of authorized hours is applied to the recipient's*
12 *previously authorized services.*

13 (3) *That a county shall assess a recipient's need for supportive*
14 *services any time that the recipient notifies the county of a need*
15 *to adjust the supportive services hours authorized, or when there*
16 *are other indications or expectations of a change in circumstances*
17 *affecting the recipient's need for supportive services. Counties*
18 *shall not require recipients to submit a medical certification form*
19 *or a doctor's note to show evidence of a change in the recipient's*
20 *circumstances.*

21 (d) *A recipient shall have all appeal rights otherwise provided*
22 *for under Chapter 7 (commencing with Section 10950) of Part 2.*

23 SEC. 2. *Section 12301.02 is added to the Welfare and*
24 *Institutions Code, to read:*

25 12301.02. (a) (1) *Notwithstanding any other law, except as*
26 *provided in subdivision (c), the department shall implement a 7*
27 *percent reduction in hours of service to each recipient of services*
28 *under this article, which shall be applied to the recipient's hours*
29 *as authorized pursuant to the most recent assessment. This*
30 *reduction shall become effective 12 months after the*
31 *implementation of the reduction set forth in Section 12301.01. The*
32 *reduction required by this section shall not preclude any*
33 *reassessment to which a recipient would otherwise be entitled.*
34 *However, hours authorized pursuant to a reassessment shall be*
35 *subject to the 7 percent reduction required by this section.*

36 (2) *A request for reassessment based only on the reduction*
37 *required in paragraph (1) may be administratively denied by the*
38 *county.*

1 (3) A recipient of services under this article may direct the
2 manner in which the reduction of hours is applied to the recipient's
3 previously authorized services.

4 (4) For those individuals who have a documented unmet need,
5 excluding protective supervision because of the limitations on
6 authorized hours under Section 12303.4, the reduction shall be
7 taken first from the documented unmet need.

8 (b) The notice of action informing the recipient of the reduction
9 pursuant to subdivision (a) shall be mailed at least 20 days prior
10 to the reduction going into effect. The notice of action shall be
11 understandable to the recipient and translated into all languages
12 spoken by a substantial number of the public served by the In-Home
13 Supportive Services Program, in accordance with Section 7295.2
14 of the Government Code. The notice shall not contain any recipient
15 financial or confidential identifying information other than the
16 recipient's name, address, and Case Management Information
17 and Payroll System (CMIPS) client identification number, and
18 shall include, but not be limited to, all of the following information:

19 (1) The aggregate number of authorized hours before the
20 reduction pursuant to subdivision (a) and the aggregate number
21 of authorized hours after the reduction.

22 (2) That the recipient may direct the manner in which the
23 reduction of authorized hours is applied to the recipient's
24 previously authorized services.

25 (3) A county shall assess a recipient's need for supportive
26 services any time that the recipient notifies the county of a need
27 to adjust the supportive services hours authorized, or when there
28 are other indications or expectations of a change in circumstances
29 affecting the recipient's need for supportive services. Counties
30 shall not require recipients to submit a medical certification form
31 or a doctor's note to show evidence of a change in the recipient's
32 circumstances.

33 (c) A recipient shall have all appeal rights otherwise provided
34 for under Chapter 7 (commencing with Section 10950) of Part 2.

35 (d) The reduction specified in paragraph (1) of subdivision (a)
36 shall be ongoing and may be adjusted pursuant to Section
37 12301.03.

38 SEC. 3. Section 12301.03 is added to the Welfare and
39 Institutions Code, to read:

1 12301.03. (a) *It is the intent of this section to offset the*
2 *reductions described in Section 12301.02 to the extent that an*
3 *assessment as described in Section 12301.05 provides General*
4 *Fund savings. This section shall become operative only upon*
5 *certification by the State Department of Health Care Services that*
6 *any necessary federal approvals to implement the assessment*
7 *referenced in Section 12301.05 have been obtained. This*
8 *certification shall be provided promptly to the Joint Legislative*
9 *Budget Committee and the Department of Finance.*

10 (b) *Within 30 days after receipt of the certification described*
11 *in subdivision (a), the Director of Finance shall perform the*
12 *obligations described in this subdivision for the fiscal year in which*
13 *the certification is received and for the following fiscal year.*
14 *Specifically, the Director of Finance shall do the following:*

15 (1) *Estimate the total amount of additional funding, less refunds,*
16 *that will be derived from the assessment for the next fiscal year.*

17 (2) *Estimate the amount of the total revenues, if any, that are*
18 *attributable to any permitted retroactive implementation of the*
19 *assessment.*

20 (3) *Estimate the amount of the total General Fund savings*
21 *generated by the assessment revenues that remain after taking into*
22 *account reductions such as the revenues attributable to any*
23 *retroactive application of the assessment that will be allocated*
24 *pursuant to Section 12301.04, and any General Fund costs*
25 *associated with establishment and administration of the assessment.*
26 *The General Fund costs shall be estimated following consultation*
27 *with the appropriate budget subcommittees of the Legislature.*

28 (4) *Calculate, as a percentage, the amount by which the*
29 *reduction described in Section 12301.02 is offset by General Fund*
30 *savings. In making this calculation, the Director of Finance shall*
31 *estimate the amount of the reduction that may be partially or*
32 *completely offset. If the estimated General Fund savings from the*
33 *assessment are less than the amount required to fully offset the*
34 *reduction pursuant to Section 12301.02, then the percentage offset*
35 *shall be proportionate to the level of General Fund savings. At no*
36 *point may the reduction pursuant to Section 12301.02 become*
37 *negative or go below zero.*

38 (5) *Notify the Joint Legislative Budget Committee of the*
39 *determinations made in paragraphs (1) to (4), inclusive.*

1 (c) On or before May 14, prior to the third fiscal year after the
2 certification described in subdivision (a) is received, the Director
3 of Finance shall perform the activities described in paragraphs
4 (1) to (5), inclusive, of subdivision (b).

5 (d) Within 10 days of the effective date of any federal change
6 or action that prevents or reduces the amount of General Fund
7 savings received from the assessment, the Director of Health Care
8 Services shall provide a notification to the Joint Legislative Budget
9 Committee and the Director of Finance of that change. Within 30
10 days of the receipt of this notification, the Director of Finance
11 shall perform the activities described in paragraphs (1) to (5),
12 inclusive, of subdivision (b).

13 (e) Notwithstanding any provision of Section 12301.02, the
14 reduction of services required by Section 12301.02 shall be
15 mitigated by the percentage offset determined by the Director of
16 Finance in paragraph (4) of subdivision (b).

17 (f) (1) Any change in the percentage reduction of services as
18 provided in Section 12301.02 shall occur on the first day of the
19 first full month occurring 30 days after the determination provided
20 for in subdivision (b) is made by the Director of Finance.

21 (2) Any change in the percentage reduction of services as
22 provided in Section 12301.02 due to a determination of the
23 Director of Finance required by subdivision (c) shall occur on
24 July 1 of the fiscal year immediately following the determination.

25 (3) If a change in the percentage reduction of services as
26 provided in Section 12301.02 is triggered based on a determination
27 of the Director of Finance required by subdivision (d), that change
28 in hours of service shall occur on July 1 after the notification
29 referenced in subdivision (d) from the Director of Health Care
30 Services is received, if the notification is received between the
31 preceding September 30 and January 2. If the notification is
32 received on any other date, then a change in hours shall occur on
33 the first of the month that is nine months after the notification is
34 received.

35 (g) In preparation of every Governor's Budget and for every
36 May revision, the Director of Finance shall perform the obligation
37 described in paragraphs (1) to (3), inclusive, of subdivision (b).

38 SEC. 4. Section 12301.04 is added to the Welfare and
39 Institutions Code, to read:

1 12301.04. (a) *There is hereby created in the State Treasury*
2 *an In-Home Supportive Services Reinvestment Fund, which shall*
3 *receive moneys to the extent that an assessment described in*
4 *Section 12301.05 is implemented retroactively.*

5 (b) *The fund shall be used to provide goods or services for*
6 *one-time direct reinvestments benefiting IHSS recipients.*

7 (c) *The fund shall be used in a manner that does not create*
8 *ongoing General Fund obligations.*

9 (d) *Pursuant to Section 12301.03, the Director of Finance shall*
10 *estimate the amount of retroactive assessment due to the fund. In*
11 *each fiscal year for which there are estimated retroactive revenues,*
12 *the Director of Finance shall provide the Controller a schedule*
13 *of what portion of the assessment shall be deposited in the fund.*

14 (e) *The resources in the fund shall be reinvested for the benefit*
15 *of IHSS recipients, in compliance with the requirements in this*
16 *section and those in the settlement agreement pertaining to Oster*
17 *v. Lightbourne, N.D. Cal., Case No. CV 09-04668 CW, U.S. Court*
18 *of Appeals for the Ninth Circuit, Case No. 12-15366, and*
19 *Dominguez v. Brown, N.D. Cal., Case No. CV 09-02306 CW, U.S.*
20 *Court of Appeals for the Ninth Circuit, Case No. 09-16359.*

21 (f) *The Director of Finance shall consult with plaintiffs in the*
22 *lawsuits identified in subdivision (e) in order to develop a plan to*
23 *reinvest the funds for the benefit of IHSS recipients. After the plan*
24 *is developed and prior to the allocation of any funds, it shall be*
25 *submitted to the appropriate policy and fiscal committees of the*
26 *Legislature.*

27 (1) *If notice of federal approval of retroactive implementation*
28 *of the assessment is received by the Director of Finance between*
29 *January 1 and May 10 of any year, and the plan anticipates any*
30 *expenditure of the funds before June 30 of that year, the Director*
31 *of Finance shall notify the Joint Legislative Budget Committee at*
32 *least 30 days prior to allocating any of those funds, for a purpose*
33 *authorized by this section, if the allocation is proposed to be used*
34 *in the current fiscal year.*

35 (2) (A) *If notice of federal approval of retroactive*
36 *implementation of the assessment is received by the Director of*
37 *Finance between January 1 and May 10 of any year, and the plan*
38 *anticipates any expenditure of the funds after June 30 of that year,*
39 *for a purpose authorized by this section, the Director of Finance*

1 shall seek legislative approval of those budget year expenditures
2 through the annual Budget Act or in other legislation.

3 (B) Notwithstanding subparagraph (A), if the Legislature does
4 not allocate moneys from the fund pursuant to subparagraph (A)
5 in the annual Budget Act or in other legislation, the Director of
6 Finance shall, on or after September 15, notify the Joint Legislative
7 Budget Committee at least 30 days prior to allocating any of those
8 funds, for a purpose authorized by this section, if the allocation is
9 proposed to be used in that current fiscal year.

10 (3) If notice of federal approval of retroactive implementation
11 of the assessment is received by the Director of Finance after May
12 10 and before January 1 of any year, the Director of Finance shall
13 notify the Joint Legislative Budget Committee at least 30 days
14 prior to allocating any of those funds, for a purpose authorized
15 by this section, if the allocation is proposed to be used in the
16 current fiscal year.

17 (g) Notwithstanding Section 13340 of the Government Code,
18 when the requirements of subdivision (f) have been met, the moneys
19 in the fund are continuously appropriated to the State Department
20 of Social Services for the purposes of this section.

21 SEC. 5. Section 12301.05 is added to the Welfare and
22 Institutions Code, to read:

23 12301.05. It is the intent of the Legislature to enact legislation
24 in 2013 to authorize an assessment on home care services,
25 including, but not limited to, home health care and in-home
26 supportive services, consistent with the settlement agreement
27 pertaining to *Oster v. Lightbourne, N.D. Cal., Case No.*
28 *CV09-04668 CW, U.S. Court of Appeals for the Ninth Circuit,*
29 *Case No. 12-15366, and Dominguez v. Brown, N.D. Cal., Case*
30 *No. CV 09-02306 CW, U.S. Court of Appeals for the Ninth Circuit,*
31 *Case No. 09-16359.*

32 SEC. 6. Section 12301.07 of the Welfare and Institutions Code
33 is repealed.

34 ~~12301.07. (a) (1) Notwithstanding any other provision of law,~~
35 ~~if subdivision (b) of Section 3.94 of the Budget Act of 2011 is~~
36 ~~operative, the department shall implement a 20-percent reduction~~
37 ~~in authorized hours of service to each in-home supportive services~~
38 ~~recipient as specified in this section, effective January 1, 2012,~~
39 ~~which shall be applied to the recipient's hours as authorized~~
40 ~~pursuant to his or her most recent assessment.~~

1 ~~(2) The reduction required by this section shall not preclude~~
2 ~~any reassessment to which a recipient would otherwise be entitled.~~
3 ~~However, hours authorized pursuant to a reassessment shall be~~
4 ~~subject to the reduction required by this section.~~

5 ~~(3) For those recipients who have a documented unmet need,~~
6 ~~excluding protective supervision, because of the limitations~~
7 ~~contained in Section 12303.4, this reduction shall be applied first~~
8 ~~to the unmet need before being applied to the authorized hours. If~~
9 ~~the recipient believes he or she will be at serious risk of~~
10 ~~out-of-home placement as a consequence of the reduction, the~~
11 ~~recipient may apply for a restoration of the reduction of authorized~~
12 ~~service hours, pursuant to subdivision (f).~~

13 ~~(4) A recipient of services under this article may direct the~~
14 ~~manner in which the reduction of hours is applied to the recipient's~~
15 ~~previously authorized services.~~

16 ~~(5) The reduction in service hours made pursuant to paragraph~~
17 ~~(1) shall not apply to in-home supportive services recipients who~~
18 ~~also receive services under Section 9560, subdivision (t) of Section~~
19 ~~14132, and Section 14132.99.~~

20 ~~(b) The department shall work with the counties to develop a~~
21 ~~process to allow for counties to preapprove IHSS Care Supplements~~
22 ~~described in subdivision (f), to the extent that the process is~~
23 ~~permissible under federal law. The preapproval process shall be~~
24 ~~subject to the following conditions:~~

25 ~~(1) The preapproval process shall rely on the criteria for~~
26 ~~assessing IHSS Care Supplement applications, developed pursuant~~
27 ~~to subdivision (f).~~

28 ~~(2) Preapproval shall be granted only to individuals who would~~
29 ~~otherwise be granted a full restoration of their hours pursuant to~~
30 ~~subdivision (f).~~

31 ~~(3) With respect to existing recipients as of the effective date~~
32 ~~of this section, all efforts shall be made to ensure that counties~~
33 ~~complete the process on or before a specific date, as determined~~
34 ~~by the department, in consultation with counties in order to allow~~
35 ~~for the production, printing, and mailing of notices to be issued to~~
36 ~~remaining recipients who are not granted preapproval and who~~
37 ~~thereby are subject to the reduction pursuant to this section.~~

38 ~~(4) The department shall work with counties to determine how~~
39 ~~to apply a preapproval process with respect to new applicants to~~
40 ~~the IHSS program who apply after the effective date of this section.~~

1 ~~(e) The notice of action informing each recipient who is not~~
2 ~~preapproved for an IHSS Care Supplement pursuant to subdivision~~
3 ~~(b) shall be mailed at least 15 days prior to the reduction going~~
4 ~~into effect. The notice of action shall be understandable to the~~
5 ~~recipient and translated into all languages spoken by a substantial~~
6 ~~number of the public served by the In-Home Supportive Services~~
7 ~~program, in accordance with Section 7295.2 of the Government~~
8 ~~Code. The notice shall not contain any recipient financial or~~
9 ~~confidential identifying information other than the recipient's~~
10 ~~name, address, and Case Management Information and Payroll~~
11 ~~System (CMIPS) client identification number, and shall include,~~
12 ~~but not be limited to, all of the following information:~~

13 ~~(1) The aggregate number of authorized hours before the~~
14 ~~reduction pursuant to paragraph (1) of subdivision (a) and the~~
15 ~~aggregate number of authorized hours after the reduction.~~

16 ~~(2) That the recipient may direct the manner in which the~~
17 ~~reduction of authorized hours is applied to the recipient's~~
18 ~~previously authorized services.~~

19 ~~(3) How all or part of the reduction may be restored, as set forth~~
20 ~~in subdivision (f), if the recipient believes he or she will be at~~
21 ~~serious risk of out-of-home placement as a consequence of the~~
22 ~~reduction.~~

23 ~~(d) The department shall inform providers of any reduction to~~
24 ~~recipient hours through a statement on provider timesheets, after~~
25 ~~consultation with counties.~~

26 ~~(e) The IHSS Care Supplement application process described~~
27 ~~in subdivision (f) shall be completed before a request for a state~~
28 ~~hearing is submitted. If the IHSS Care Supplement application is~~
29 ~~filed within 15 days of the notice of action required by subdivision~~
30 ~~(e), or before the effective date of the reduction, the recipient shall~~
31 ~~be eligible for aid paid pending. A revised notice of action shall~~
32 ~~be issued by the county following evaluation of the IHSS Care~~
33 ~~Supplement application.~~

34 ~~(f) (1) Any aged, blind, or disabled individual who is eligible~~
35 ~~for services under this article who receives a notice of action~~
36 ~~indicating that his or her services will be reduced under subdivision~~
37 ~~(a) but who believes he or she is at serious risk of out-of-home~~
38 ~~placement unless all or part of the reduction is restored may submit~~
39 ~~an IHSS Care Supplement application. When a recipient submits~~
40 ~~an IHSS Care Supplement application within 15 days of receiving~~

1 the reduction notice or prior to the implementation of the reduction,
2 the recipient's in-home supportive services shall continue at the
3 level authorized by the most recent assessment, prior to any
4 reduction, until the county finds that the recipient does or does not
5 require restoration of any hours through the IHSS Care Supplement.
6 If the recipient disagrees with the county's determination
7 concerning the need for the IHSS Care Supplement, the recipient
8 may request a hearing on that determination.

9 (2) The department shall develop an assessment tool, in
10 consultation with stakeholders, to be used by the counties to
11 determine if a recipient is at serious risk of out-of-home placement
12 as a consequence of the reduction of services pursuant to this
13 section. The assessment tool shall be developed utilizing standard
14 of care criteria for relevant out-of-home placements that serve
15 individuals who are aged, blind, or who have disabilities and who
16 would qualify for IHSS if living at home, including, but not limited
17 to, criteria set forth in Chapter 7.0 of the Manual of Criteria for
18 Medi-Cal Authorization published by the State Department of
19 Health Care Services, as amended April 15, 2004, and the IHSS
20 uniform assessment guidelines.

21 (3) Counties shall give a high priority to prompt screening of
22 persons specified in this section to determine their need for an
23 IHSS Care Supplement.

24 (g) (1) Notwithstanding the rulemaking provisions of the
25 Administrative Procedure Act (Chapter 3.5 (commencing with
26 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
27 Code), the department may implement and administer this section
28 through all-county letters or similar instruction from the department
29 until regulations are adopted. The department shall adopt
30 emergency regulations implementing this section no later than
31 March 1, 2013. The department may readopt any emergency
32 regulation authorized by this section that is the same as or
33 substantially equivalent to an emergency regulation previously
34 adopted under this section.

35 (2) The initial adoption of emergency regulations implementing
36 this section and one readoption of emergency regulations
37 authorized by this subdivision shall be deemed an emergency and
38 necessary for the immediate preservation of the public peace,
39 health, safety, or general welfare. Initial emergency regulations
40 and the one readoption of emergency regulations authorized by

1 ~~this section shall be exempt from review by the Office of~~
2 ~~Administrative Law. The initial emergency regulations and the~~
3 ~~one readoption of emergency regulations authorized by this section~~
4 ~~shall be submitted to the Office of Administrative Law for filing~~
5 ~~with the Secretary of State and each shall remain in effect for no~~
6 ~~more than 180 days, by which time final regulations may be~~
7 ~~adopted.~~

8 ~~(h) If the Director of Health Care Services determines that~~
9 ~~federal approval is necessary to implement this section, this section~~
10 ~~shall be implemented only after any state plan amendments~~
11 ~~required pursuant to Section 14132.95 are approved.~~

12 *SEC. 7. Section 12306.1 of the Welfare and Institutions Code,*
13 *as amended by Section 39 of Chapter 439 of the Statutes of 2012,*
14 *is amended to read:*

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

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

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

39 (b) Any rate approved pursuant to subdivision (a) shall take
40 effect commencing on the first day of the month subsequent to the

1 month in which final approval is received from the department.
2 The department may grant approval on a conditional basis, subject
3 to the availability of funding.

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

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

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

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

1 of revenue, excluding transfers, for the year in which paragraph
2 (2) became operative.

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

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

30 ~~(6) Notwithstanding paragraphs (2) to (5), inclusive, the state~~
31 ~~shall participate as provided in subdivision (c) in a total cost of~~
32 ~~wages up to nine dollars and fifty cents (\$9.50) per hour and in~~
33 ~~individual health benefits up to sixty cents (\$0.60) per hour. This~~
34 ~~paragraph shall become operative on July 1, 2009.~~

35 ~~(7) (A) The Legislature finds and declares that injunctions~~
36 ~~issued by the courts have prevented the state from implementing~~
37 ~~the changes described in paragraph (6) during the pendency of~~
38 ~~litigation. To avoid confusion for providers, recipients, and other~~
39 ~~stakeholders, it is therefore the intent of the Legislature to~~

1 temporarily suspend the reductions described in that paragraph
2 until July 1, 2012, to allow the litigation to reach a final result.

3 ~~(B) Paragraph (6) shall not be implemented until July 1, 2012,~~
4 ~~and as of that date shall only be implemented if a court of~~
5 ~~competent jurisdiction has issued an order, that is not subject to~~
6 ~~appeal or for which the time to appeal has expired, upholding its~~
7 ~~validity.~~

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

14 (2) For purposes of certifications under paragraph (1), the
15 General Fund revenue forecast, excluding transfers, that is used
16 for the relevant fiscal year shall be calculated in a manner that is
17 consistent with the definition of General Fund revenues, excluding
18 transfers, that was used by the Department of Finance in the
19 2000–01 Governor’s Budget revenue forecast as reflected on
20 Schedule 8 of the Governor’s Budget.

21 (f) Any increase in overall state participation in wage and benefit
22 increases under paragraphs (2) to (5), inclusive, of subdivision (d),
23 shall be limited to a wage and benefit increase of one dollar (\$1)
24 per hour with respect to any fiscal year. With respect to actual
25 changes in specific wages and health benefits negotiated through
26 the collective bargaining process, the state shall participate in the
27 costs, as approved in subdivision (c), up to the maximum levels
28 as provided under paragraphs (2) to ~~(6)~~, (5), inclusive, of
29 subdivision (d).

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

35 (h) This section shall become inoperative only if Chapter 45 of
36 the Statutes of 2012 is deemed inoperative pursuant to Section 15
37 of that chapter.

38 *SEC. 8. Section 12306.1 of the Welfare and Institutions Code,*
39 *as amended by Section 38 of Chapter 439 of the Statutes of 2012,*
40 *is amended to read:*

1 12306.1. (a) When any increase in provider wages or benefits
2 is negotiated or agreed to by a public authority or nonprofit
3 consortium under Section 12301.6, then the county shall use
4 county-only funds to fund both the county share and the state share,
5 including employment taxes, of any increase in the cost of the
6 program, unless otherwise provided for in the annual Budget Act
7 or appropriated by statute. No increase in wages or benefits
8 negotiated or agreed to pursuant to this section shall take effect
9 unless and until, prior to its implementation, the department has
10 obtained the approval of the State Department of Health Care
11 Services for the increase pursuant to a determination that it is
12 consistent with federal law and to ensure federal financial
13 participation for the services under Title XIX of the federal Social
14 Security Act, and unless and until all of the following conditions
15 have been met:

16 (1) Each county has provided the department with
17 documentation of the approval of the county board of supervisors
18 of the proposed public authority or nonprofit consortium rate,
19 including wages and related expenditures. The documentation shall
20 be received by the department before the department and the State
21 Department of Health Care Services may approve the increase.

22 (2) Each county has met department guidelines and regulatory
23 requirements as a condition of receiving state participation in the
24 rate.

25 (b) Any rate approved pursuant to subdivision (a) shall take
26 effect commencing on the first day of the month subsequent to the
27 month in which final approval is received from the department.
28 The department may grant approval on a conditional basis, subject
29 to the availability of funding.

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

35 (d) (1) The state shall participate as provided in subdivision (c)
36 in wages up to seven dollars and fifty cents (\$7.50) per hour and
37 individual health benefits up to sixty cents (\$0.60) per hour for all
38 public authority or nonprofit consortium providers. This paragraph
39 shall be operative for the 2000–01 fiscal year and each year
40 thereafter unless otherwise provided in paragraphs (2), (3), (4),

1 and (5), and without regard to when the wage and benefit increase
2 becomes effective.

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

14 (3) The state shall participate as provided in subdivision (c) in
15 a total of wages and individual health benefits up to ten dollars
16 and ten cents (\$10.10) per hour, if wages have reached at least
17 seven dollars and fifty cents (\$7.50) per hour. Counties shall
18 determine, pursuant to the collective bargaining process provided
19 for in subdivision (c) of Section 12301.6, what portion of the ten
20 dollars and ten cents (\$10.10) per hour shall be used to fund wage
21 increases above seven dollars and fifty cents (\$7.50) per hour or
22 individual health benefit increases, or both. This paragraph shall
23 be operative commencing with the next state fiscal year for which
24 the May Revision forecast of General Fund revenue, excluding
25 transfers, exceeds by at least 5 percent, the most current estimate
26 of revenue, excluding transfers, for the year in which paragraph
27 (2) became operative.

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

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

15 ~~(6) Notwithstanding paragraphs (2) to (5), inclusive, the state~~
16 ~~shall participate as provided in subdivision (c) in a total cost of~~
17 ~~wages up to nine dollars and fifty cents (\$9.50) per hour and in~~
18 ~~individual health benefits up to sixty cents (\$0.60) per hour. This~~
19 ~~paragraph shall become operative on July 1, 2009.~~

20 ~~(7) (A) The Legislature finds and declares that injunctions issued~~
21 ~~by the courts have prevented the state from implementing the~~
22 ~~changes described in paragraph (6) during the pendency of~~
23 ~~litigation. To avoid confusion for providers, recipients, and other~~
24 ~~stakeholders, it is therefore the intent of the Legislature to~~
25 ~~temporarily suspend the reductions described in that paragraph~~
26 ~~until July 1, 2012, to allow the litigation to reach a final result.~~

27 ~~(B) Paragraph (6) shall not be implemented until July 1, 2012,~~
28 ~~and as of that date shall only be implemented if a court of~~
29 ~~competent jurisdiction has issued an order, that is not subject to~~
30 ~~appeal or for which the time to appeal has expired, upholding its~~
31 ~~validity.~~

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

38 (2) For purposes of certifications under paragraph (1), the
39 General Fund revenue forecast, excluding transfers, that is used
40 for the relevant fiscal year shall be calculated in a manner that is

1 consistent with the definition of General Fund revenues, excluding
2 transfers, that was used by the Department of Finance in the
3 2000–01 Governor’s Budget revenue forecast as reflected on
4 Schedule 8 of the Governor’s Budget.

5 (f) Any increase in overall state participation in wage and benefit
6 increases under paragraphs (2) to (5), inclusive, of subdivision (d),
7 shall be limited to a wage and benefit increase of one dollar (\$1)
8 per hour with respect to any fiscal year. With respect to actual
9 changes in specific wages and health benefits negotiated through
10 the collective bargaining process, the state shall participate in the
11 costs, as approved in subdivision (c), up to the maximum levels
12 as provided under paragraphs (2) to ~~(6)~~, (5), inclusive, of
13 subdivision (d).

14 (g) This section shall become operative only if Chapter 45 of
15 the Statutes of 2012 is deemed inoperative pursuant to Section 15
16 of that chapter.

17 *SEC. 9. Section 12309 of the Welfare and Institutions Code is*
18 *amended to read:*

19 12309. (a) In order to assure that in-home supportive services
20 are delivered in all counties in a uniform manner, the department
21 shall develop a uniform needs assessment tool.

22 (b) (1) Each county shall, in administering this article, use the
23 uniform needs assessment tool developed pursuant to subdivision
24 (a) in collecting and evaluating information.

25 (2) For purposes of paragraph (1), “information” includes, but
26 is not limited to, all of the following:

27 (A) The recipient’s living environment.

28 (B) Alternative resources.

29 (C) The recipient’s functional abilities.

30 (c) (1) The uniform needs assessment tool developed pursuant
31 to subdivision (a) shall evaluate the recipient’s functioning in
32 activities of daily living and instrumental activities of daily living.

33 (2) The recipient’s functioning shall be quantified, using the
34 general hierarchical five-point scale for ranking each function, as
35 specified in subdivision (d).

36 (d) The recipient’s functioning ranks shall be as follows:

37 (1) Rank one. A recipient’s functioning shall be classified as
38 rank one if his or her functioning is independent, and he or she is
39 able to perform the function without human assistance, although
40 the recipient may have difficulty in performing the function, but

1 the completion of the function, with or without a device or mobility
2 aid, poses no substantial risk to his or her safety.

3 (2) Rank two. A recipient's functioning shall be classified as
4 rank two if he or she is able to perform a function, but needs verbal
5 assistance, such as reminding, guidance, or encouragement.

6 (3) Rank three. A recipient's functioning shall be classified as
7 rank three if he or she can perform the function with some human
8 assistance, including, but not limited to, direct physical assistance
9 from a provider.

10 (4) Rank four. A recipient's functioning shall be classified as
11 rank four if he or she can perform a function, but only with
12 substantial human assistance.

13 (5) Rank five. A recipient's functioning shall be classified as
14 rank five if he or she cannot perform the function, with or without
15 human assistance.

16 ~~(e) (1) Notwithstanding any other law, and effective September~~
17 ~~1, 2009, individuals shall be eligible for each domestic or related~~
18 ~~service only if assessed at a rank four or five, as defined in~~
19 ~~subdivision (d), in the activity of daily living relating to that~~
20 ~~service. The activities of daily living that relate to domestic and~~
21 ~~related services are defined in regulations and include housework,~~
22 ~~laundry, shopping and errands, meal preparation, and meal cleanup.~~
23 ~~The rank for each domestic and related service shall be determined~~
24 ~~based on an assessment of need for supportive services by the~~
25 ~~county, in accordance with this section and the hourly task~~
26 ~~guidelines as defined by Section 12301.2. This paragraph does not~~
27 ~~apply to individuals meeting one of the conditions specified in~~
28 ~~paragraph (2).~~

29 ~~(2) Paragraph (1) shall not apply to individuals authorized to~~
30 ~~receive either protective supervision pursuant to subdivision (b)~~
31 ~~of Section 12300 and Section 12301.21 or paramedical services~~
32 ~~pursuant to Section 12300.1, or to individuals authorized to receive~~
33 ~~over 120 hours of services per month.~~

34 ~~(3) To the extent necessary to maintain federal financial~~
35 ~~participation, the director may waive any or all of the provisions~~
36 ~~of paragraph (2), after consultation with the State Department of~~
37 ~~Health Care Services.~~

38 ~~(f) A recipient shall be assigned a functional index score. The~~
39 ~~functional index score for a recipient shall be a weighted average~~
40 ~~based on the individual functional index rankings, as described in~~

1 subdivision (d), to provide a single measure of a recipient's relative
2 dependence on human assistance for performance of activities of
3 daily living that are used in the assessment of services provided
4 pursuant to this article.

5 ~~(g) (1) Notwithstanding the rulemaking provisions of the~~
6 ~~Administrative Procedure Act (Chapter 3.5 (commencing with~~
7 ~~Section 11340) of Part 1 of Division 3 of Title 2 of the Government~~
8 ~~Code) the department may implement and administer this section~~
9 ~~through all-county letters or similar instruction from the department~~
10 ~~until regulations are adopted. The department shall adopt~~
11 ~~emergency regulations implementing this section no later than July~~
12 ~~1, 2010. The department may readopt any emergency regulation~~
13 ~~authorized by this section that is the same as or substantially~~
14 ~~equivalent to an emergency regulation previously adopted under~~
15 ~~this section.~~

16 ~~(2) The initial adoption of emergency regulations implementing~~
17 ~~this section and one readoption of emergency regulations shall be~~
18 ~~deemed an emergency and necessary for the immediate~~
19 ~~preservation of the public peace, health, safety, or general welfare.~~
20 ~~Initial emergency regulations and the one readoption of emergency~~
21 ~~regulations authorized by this subdivision shall be exempt from~~
22 ~~review and approval by the Office of Administrative Law. The~~
23 ~~initial emergency regulations and the one readoption of emergency~~
24 ~~regulations authorized by this subdivision shall be submitted to~~
25 ~~the Office of Administrative Law for filing with the Secretary of~~
26 ~~State and each shall remain in effect for no more than 180 days,~~
27 ~~by which time final regulations may be adopted.~~

28 ~~(h) Subdivisions (e), (f), and (g) shall become operative on~~
29 ~~September 1, 2009.~~

30 ~~(i) (1) The Legislature finds and declares that injunctions issued~~
31 ~~by the courts have prevented the state from implementing the~~
32 ~~changes described in subdivisions (e), (f), and (g) during the~~
33 ~~pendency of litigation. To avoid confusion for providers, recipients,~~
34 ~~and other stakeholders, it is therefore the intent of the Legislature~~
35 ~~to temporarily suspend the reductions described in those~~
36 ~~subdivisions until July 1, 2012, to allow the litigation to reach a~~
37 ~~final result.~~

38 ~~(2) Notwithstanding subdivision (h) or any other provision of~~
39 ~~law, subdivisions (e), (f), and (g) shall not be implemented until~~
40 ~~July 1, 2012, and as by that date shall only be implemented if a~~

1 court of competent jurisdiction has issued an order, that is not
2 subject to appeal or for which the time to appeal has expired,
3 upholding their validity.

4 *SEC. 10. Section 12309.2 of the Welfare and Institutions Code*
5 *is repealed.*

6 ~~12309.2. (a) Notwithstanding any other law, except as provided~~
7 ~~in subdivision (b), and pursuant to subdivision (c) of Section 12309,~~
8 ~~and effective September 1, 2009, eligibility for in-home supportive~~
9 ~~services provided pursuant to Article 7 (commencing with Section~~
10 ~~12300) of Chapter 3 shall also include functional index scores~~
11 ~~calculated pursuant to subdivision (f) of Section 12309, as follows:~~

12 ~~(1) Individuals with a functional index score of 2.0 and above~~
13 ~~shall be eligible to receive all appropriate in-home supportive~~
14 ~~services provided pursuant to this article.~~

15 ~~(2) Individuals with a functional index score below 2.0 shall~~
16 ~~not be eligible for any in-home supportive services provided~~
17 ~~pursuant to this article.~~

18 ~~(3) Paragraph (2) shall not apply to individuals authorized to~~
19 ~~receive protective supervision pursuant to subdivision (b) of~~
20 ~~Section 12300 and Section 12301.21 or paramedical services~~
21 ~~pursuant to Section 12300.1, or to individuals authorized to receive~~
22 ~~over 120 hours of services per month pursuant to Section 12301.2.~~

23 ~~(4) To the extent necessary to maintain federal financial~~
24 ~~participation, the director may waive any or all of the provisions~~
25 ~~of paragraph (3), after consultation with the State Department of~~
26 ~~Health Care Services.~~

27 ~~(b) The department shall modify the notice of action forms to~~
28 ~~inform individuals whose hours are reduced or for whom eligibility~~
29 ~~is eliminated by the changes made to Section 12309 or this section~~
30 ~~by the act adding this section of their functional rank and functional~~
31 ~~index score. The form shall be modified no later than September~~
32 ~~1, 2009.~~

33 ~~(e) (1) Notwithstanding the rulemaking provisions of the~~
34 ~~Administrative Procedure Act, Chapter 3.5 (commencing with~~
35 ~~Section 11340) of Part 1 of Division 3 of Title 2 of the Government~~
36 ~~Code, the department may implement and administer this section~~
37 ~~through all-county letters or similar instruction from the department~~
38 ~~until regulations are adopted. The department shall adopt~~
39 ~~emergency regulations implementing this section no later than July~~
40 ~~1, 2010. The department may readopt any emergency regulation~~

1 authorized by this section that is the same as or substantially
2 equivalent to an emergency regulation previously adopted under
3 this section.

4 (2) ~~The initial adoption of emergency regulations implementing
5 this section and the one readoption of emergency regulations
6 authorized by this subdivision shall be deemed an emergency and
7 necessary for the immediate preservation of the public peace,
8 health, safety, or general welfare. Initial emergency regulations
9 and the one readoption of emergency regulations authorized by
10 this section shall be exempt from review and approval by the Office
11 of Administrative Law. The initial emergency regulations and the
12 one readoption of emergency regulations authorized by this section
13 shall be submitted to the Office of Administrative Law for filing
14 with the Secretary of State and each shall remain in effect for no
15 more than 180 days, by which time final regulations may be
16 adopted.~~

17 ~~(d) This section shall become operative on September 1, 2009.~~

18 ~~(e) (1) The Legislature finds and declares that injunctions issued
19 by the courts have prevented the state from implementing the
20 changes described in this section during the pendency of litigation.
21 To avoid confusion for providers, recipients, and other
22 stakeholders, it is therefore the intent of the Legislature to
23 temporarily suspend the reductions described in this section until
24 July 1, 2012, to allow the litigation to reach a final result.~~

25 ~~(2) Notwithstanding subdivision (d) or any other provision of
26 law, this section shall not be implemented until July 1, 2012, and
27 as of that date shall only be implemented if a court of competent
28 jurisdiction has issued an order, that is not subject to appeal or for
29 which the time to appeal has expired, upholding its validity.~~

30 *SEC. 11. (a) Notwithstanding the rulemaking provisions of*
31 *the Administrative Procedure Act (Chapter 3.5 (commencing with*
32 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
33 *Code), the State Department of Social Services and the State*
34 *Department of Health Care Services may implement and administer*
35 *this act through all-county letters or similar instruction from their*
36 *respective departments until regulations are adopted. Each*
37 *department shall adopt emergency regulations implementing this*
38 *act no later than July 1, 2015. Each department may readopt any*
39 *emergency regulation authorized by this section that is the same*

1 *as or substantially equivalent to an emergency regulation*
2 *previously adopted under this section.*

3 *(b) For each department identified in subdivision (a), the initial*
4 *adoption of emergency regulations implementing this act and one*
5 *readoption of emergency regulations authorized by this section*
6 *shall be deemed an emergency and necessary for the immediate*
7 *preservation of the public peace, health, safety, or general welfare.*
8 *Initial emergency regulations and the one readoption of emergency*
9 *regulations authorized by this section shall be exempt from review*
10 *by the Office of Administrative Law. The initial emergency*
11 *regulations and the one readoption of emergency regulations*
12 *authorized by this section shall be submitted to the Office of*
13 *Administrative Law for filing with the Secretary of State and each*
14 *shall remain in effect for no more than 180 days, by which time*
15 *final regulations may be adopted.*

16 *SEC. 12. The amount of one thousand dollars (\$1,000) is*
17 *hereby appropriated from the General Fund to the State*
18 *Department of Social Services for its administrative costs during*
19 *the 2013–14 fiscal year.*

20 *SEC. 13. This act is a bill providing for appropriations related*
21 *to the Budget Bill within the meaning of subdivision (e) of Section*
22 *12 of Article IV of the California Constitution, has been identified*
23 *as related to the budget in the Budget Bill, and shall take effect*
24 *immediately.*

25 ~~SECTION 1. It is the intent of the Legislature to enact statutory~~
26 ~~changes relating to the Budget Act of 2013.~~

SENATE COMMITTEE ON BUDGET AND FISCAL REVIEW
Mark Leno, Chair

Bill No:	SB 68
Author:	Budget and Fiscal Review
As Amended:	May 7, 2013
Consultant:	Jennifer Troia
Fiscal:	Yes
Hearing Date:	May 9, 2013

Subject: Budget Act of 2012

Summary: This supplemental appropriations (deficiency) bill appropriates \$32.4 million General Fund (GF) to the Department of Developmental Services and \$505,000 GF to the Department of Social Services, and makes corresponding adjustments to anticipated federal funding, as appropriate. This bill also authorizes the reappropriation of funds for use by the Office of Statewide Health Planning and Development and by the Administrative Office of the Courts (AOC).

Background:

- 1) *Developmental Services:* The 2012 budget assumed that the California Children and Families (First 5) Commission would provide \$40 million in funding for Early Start services to young children. The First 5 Commission recently voted to instead provide the lesser amount of \$15 million in funding for these services. In addition, four out of 10 of the Intermediate Care Facility units at the Sonoma Developmental Center (SDC) were recently withdrawn from federal certification. As a result, the state is losing approximately \$1.4 million per month in federal funding.
- 2) *Social Services:* In March 2013, the Administration and plaintiffs in three In-Home Supportive Services (IHSS)-related lawsuits [*Oster (V.L.) v. Lightbourne, et al. (Oster) I & II, and Dominguez v. Schwarzenegger, et al.*] entered into a comprehensive settlement agreement that includes an eight percent across-the-board reduction in authorized hours of IHSS services. The Administration indicates that notices to recipients regarding this reduction need to be sent during the 2012-13 budget year in order to reach recipients in advance of the expiration of an existing 3.6 percent across-the-board reduction (which is scheduled to expire June 30, 2012).
- 3) *Mental Health Workforce, Education, and Training Programs.* The Mental Health Services Act (MHSA) Workforce, Education, and Training (WET) program promotes the distribution, diversity, competency, collaboration, and capacity of California's mental health practitioners. Prior to 2012-13, the MHSA WET program was administered by the Department of Mental Health and was transferred to the Office of Statewide Health Planning and Development in the 2012 budget.
- 4) *Proposed Courthouse in Alameda County:* A proposed facility is intended to replace two existing court facilities: the Gale-Schenone Courthouse, which is currently leased by the AOC for \$1.6 million per year, and the Broussard Justice Center, which flooded and is currently a non-functioning site. The county has donated the land on which the new courthouse and county administrative office are to be constructed. The county will sell bonds for the project, oversee construction, and retain ownership of the land and buildings until debt service is fully repaid. Upon full repayment of all issued bonds, the courthouse and all

associated land and buildings will be transferred to the state for \$1. A construction contract must be negotiated and finalized prior to the expiration of the construction permit with the City of Dublin, on June 30, 3013.

Proposed Law:

- 1) *Developmental Services:* Appropriates \$25 million GF to the Department of Developmental Services (DDS) for 2012-13, to backfill for the loss of assumed funding of the same amount from First 5. Additionally, appropriates \$7.4 million GF to DDS for 2012-13 to backfill for lost federal funding attendant to the lack of federal certification for four Intermediate Care Facility units at SDC.
- 2) *Social Services:* Appropriates \$505,000 GF for mailing and translation of notices regarding settlement of recent litigation and resulting changes in services to IHSS recipients.
- 3) *MHSA WET Funding:* Reappropriates unspent funds originally appropriated in fiscal years 2009-10 through 2012-13, and authorizes those funds to be available through June 30, 2018. Requires these funds to be used for the Mental Health Loan Assumption Program and Mental Health Services Act Workforce, Education, and Training programs.
- 4) *Court Funding:* Reappropriates \$50 million, from the Immediate and Critical Needs Account, to support the acquisition of the new East County Courthouse in the County of Alameda and authorizes the Judicial Branch to enter into a lease-purchase agreement with the County of Alameda for a new Courthouse project upon: a) approval by the Director of Finance; b) providing a 30-day notification to the committees in each house that consider appropriations; and, c) providing a 30-day notification, without objection, to the Joint Legislative Budget Committee.

Fiscal Effect: Appropriations of \$32.4 million General Fund (GF) to the Department of Developmental Services and \$505,000 GF to the Department of Social Services, and corresponding adjustments to anticipated federal funding, as appropriate. This bill also authorizes the reappropriation of funds that were already authorized and that remain available for use by the Office of Statewide Health Planning and Development and by the AOC.

Support: Unknown

Opposed: Unknown

AMENDED IN SENATE MAY 7, 2013

SENATE BILL

No. 68

Introduced by Committee on Budget and Fiscal Review (Senators Leno (Chair), Anderson, Beall, Berryhill, Block, DeSaulnier, Emmerson, Hancock, Hill, Jackson, Monning, Price, Roth, Wright, and Wyland)

January 10, 2013

An act ~~relating to the Budget Act of 2013~~ to amend the Budget Act of 2012 (Chapters 21 and 29 of the Statutes of 2012) by amending Items 4140-001-3085, 4140-101-3085, 4140-490, 4300-003-0001, 4300-101-0001, and 5180-111-0001 of, and by adding Item 0250-491 to, Section 2.00 of, and by amending Section 39.00 of, that act, relating to the state budget, and making an appropriation therefor, to take effect immediately, budget bill.

LEGISLATIVE COUNSEL'S DIGEST

SB 68, as amended, Committee on Budget and Fiscal Review. Budget Act of ~~2013~~ 2012.

The Budget Act of 2012 made appropriations for the support of state government for the 2012–13 fiscal year.

This bill would amend the Budget Act of 2012 by revising items of appropriation and making other changes in the Budget Act of 2012.

This bill would declare that it is to take effect immediately as a Budget Bill.

~~This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2013.~~

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

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

1 SECTION 1. Item 0250-491 is added to Section 2.00 of the
2 Budget Act of 2012, to read:

3

4 0250-491—Reappropriation, Capital Outlay, Judicial Branch. The appropria-
5 tion provided in the following citation is reappropriated for the purpose
6 of acquiring equity or other real property interests in the New East
7 County Courthouse in the County of Alameda and is subject to the limita-
8 tions, unless otherwise specified, provided for in the appropriation:

9 3138—Immediate and Critical Needs Account

10 (1) Item 0250-301-3138, Budget Act of 2010 (Ch. 712,
11 Statutes of 2010)

12 (1) 91.01.001 – Alameda County: New East County
13 Courthouse—Construction.

14 Provisions:

15 1. The Judicial Branch may enter into a lease-purchase
16 agreement with the County of Alameda for the New
17 East County Courthouse project that will provide lease
18 payments to the county subject to approval by the Di-
19 rector of Finance. At least 30 days prior to entering
20 into any agreement, the Judicial Council shall notify
21 the chairpersons of the committees in each house of
22 the Legislature that consider appropriations and the
23 Joint Legislative Budget Committee of the terms and
24 conditions of the agreement. If the Joint Legislative
25 Budget Committee does not express any opposition,
26 the Judicial Council may proceed with the agreement
27 after 30 days from when the Judicial Branch gave
28 notice to the chairpersons.

29

30 SEC. 2. Item 4140-001-3085 of Section 2.00 of the Budget Act
31 of 2012 is amended to read:

32

33 4140-001-3085—For support of Office of Statewide Health
34 Planning and Development, for payment to Item 4140-001-
35 0121, payable from the Mental Health Services Fund..... 10,924,000

36 Provisions:

37 1. Notwithstanding subdivision (a) of Section 1.80 or any
38 other provision of law, the funds appropriated in this

1 item for the purposes provided for in Sections 5820,
 2 5821, and 5822 of the Welfare and Institutions Code
 3 shall be available for expenditure and encumbrance
 4 until June 30, 2018.

5
 6 **SEC. 3. Item 4140-101-3085 of Section 2.00 of the Budget Act**
 7 **of 2012 is amended to read:**

8
 9 4140-101-3085—For local assistance, Office of Statewide Health
 10 Planning and Development, for payment to Item 4140-101-
 11 0001, payable from the Mental Health Services Fund..... 27,650,000

12 Provisions:

- 13 1. Notwithstanding subdivision (a) of Section 1.80 or
 14 any other provision of law, the funds appropriated in
 15 this item ~~for contracts with accredited physician assis-~~
 16 ~~tant programs, as well as contracts with hospitals or~~
 17 ~~other health care delivery systems located in Califor-~~
 18 ~~nia, in support of the Mental Health Services Act that~~
 19 ~~meet the standards of the California Healthcare~~
 20 ~~Workforce Policy Commission, established pursuant~~
 21 ~~to Article 1 (commencing with Section 128200) of~~
 22 ~~Chapter 4 of Part 3 of Division 107 of the Health and~~
 23 ~~Safety Code, shall continue to be available for the~~
 24 ~~2013-14, 2014-15, and 2015-16 fiscal years. for ex-~~
 25 ~~penditure and encumbrance until June 30, 2018.~~
 26 2. The funds appropriated in this item are for the purposes
 27 of the workforce, education, and training (WET) pro-
 28 grams established pursuant to Sections 5820, 5821,
 29 and 5822 of the Welfare and Institutions Code. It is
 30 the intent of the Legislature that a total of \$6,000,000
 31 in WET funds be appropriated for purposes of Sections
 32 5820, 5821, and 5822 of the Welfare and Institutions
 33 Code in a manner subject to the requirements set forth
 34 in subdivisions (a) and (e) of Section 5820 of, and
 35 subdivision (a) of Section 5848 of, the Welfare and
 36 Institutions Code. It is further the intent of the Legis-
 37 lature that \$9,000,000 be appropriated for implemen-
 38 tation of the Regional Partnerships component of the
 39 WET programs in equal amounts over a three-year
 40 period beginning in the 2014-15 fiscal year. The funds

1 appropriated in this item are available for expenditure
2 without regard to fiscal year.

3
4 *SEC. 4. Item 4140-490 of Section 2.00 of the Budget Act of*
5 *2012 is amended to read:*

6
7 4140-490—Reappropriation, Office of Statewide Health Plan-
8 ning and Development. The balances of the appropriations
9 provided in the following citations are reappropriated for
10 the purposes provided for in those appropriations and shall
11 be available for encumbrance or expenditure until June 30,
12 ~~2013~~ 2018:

- 13 3085—Mental Health Services Fund
- 14 (1) Item 4140-001-3085, Budget Act of 2011 (Ch. 33,
- 15 Stats. 2011)
- 16 (2) *Item 4140-001-3085, Budget Act of 2009 (Ch. 1,*
- 17 *2009–10 3rd Ex. Sess., as revised by Ch. 1, 2009–10*
- 18 *4th Ex. Sess.), as reappropriated by Item 4140-490,*
- 19 *Budget Act of 2010 (Ch. 712, Stats. 2010)*
- 20 (3) *Item 4140-001-3085, Budget Act of 2010 (Ch. 712,*
- 21 *Stats. 2010), as reappropriated by Item 4140-490,*
- 22 *Budget Act of 2011 (Ch. 33, Stats. 2011)*

- 23 0890—Federal Trust Fund
- 24 (1) Item 4140-001-0890, Budget Act of 2011 (Ch. 33,
- 25 Stats. 2011)
- 26 (2) Item 4140-101-0890, Budget Act of 2011 (Ch. 33,
- 27 Stats. 2011)

28
29 *SEC. 5. Item 4300-003-0001 of Section 2.00 of the Budget Act*
30 *of 2012 is amended to read:*

31
32 4300-003-0001—For support of Department of Devel-
33 opmental Services, for Developmental Centers.....

	272,603,000
	279,980,000

34
35
36 Schedule:

- 37 (1) 20-Developmental Centers Program....
- 38 534,015,000

39

- 1 (2) Reimbursements.....
- 2 -260,908,000
- 3 -253,531,000
- 4 (3) Amount payable from the Federal Trust
- 5 Fund (Item 4300-003-0890)..... -504,000
- 6 Provisions:
- 7 1. A loan shall be available from the General Fund to the
- 8 State Department of Developmental Services not to
- 9 exceed a cumulative total of \$77,000,000. The loan
- 10 funds will be transferred to this item as needed to meet
- 11 cashflow needs due to delays in collecting reimburse-
- 12 ments from the Health Care Deposit Fund and are
- 13 subject to the repayment provisions of Section 16351
- 14 of the Government Code.
- 15 2. Upon order of the Department of Finance, the Con-
- 16 troller shall transfer such funds as are necessary be-
- 17 tween this item and Item 4300-001-0001 in order to
- 18 appropriately align General Fund and Medi-Cal reim-
- 19 bursements from the State Department of Health Care
- 20 Services with budgeted activities. Within 10 working
- 21 days after approval of a transfer as authorized by this
- 22 provision, the Department of Finance shall notify the
- 23 chairpersons of the fiscal committees of each house
- 24 of the Legislature and the Chairperson of the Joint
- 25 Legislative Budget Committee of the transfer, includ-
- 26 ing the amount transferred, how the amount was deter-
- 27 mined, and how the amount will be utilized.
- 28 3. Upon order of the Department of Finance, the Con-
- 29 troller shall transfer such funds as are necessary be-
- 30 tween this item and Item 4300-101-0001. Within 10
- 31 working days after approval of a transfer as authorized
- 32 by this provision, the Department of Finance shall
- 33 notify the chairpersons of the fiscal committees in each
- 34 house of the Legislature and the Chairperson of the
- 35 Joint Legislative Budget Committee of the transfer,
- 36 including the amount transferred, how the amount
- 37 transferred was determined, and how the amount
- 38 transferred will be utilized.
- 39 4. The State Department of Developmental Services
- 40 (DDS) shall notify the chairperson of each fiscal

1 committee and policy committee of each house of the
 2 Legislature of specific outcomes resulting from cita-
 3 tions and the results of annual surveys conducted by
 4 the State Department of Public Health, as well as
 5 findings of any other governmental agency authorized
 6 to conduct investigations or surveys of state develop-
 7 mental centers. The DDS shall forward the notifica-
 8 tions, including a copy of the specific findings, to the
 9 chairpersons of the committees within 10 working
 10 days of its receipt of these findings. The DDS also
 11 shall forward these findings, within three working days
 12 of submission, to the appropriate investigating agency.
 13 In addition, the DDS shall provide notification to the
 14 chairpersons of the committees, within three working
 15 days, of its receipt of information concerning any in-
 16 vestigation initiated by the United States Department
 17 of Justice and the private nonprofit corporation desig-
 18 nated by the Governor pursuant to Division 4.7 (com-
 19 mencing with Section 4900) of the Welfare and Insti-
 20 tutions Code or concerning any findings or recommen-
 21 dations resulting from any of these investigations.

22
 23 *SEC. 6. Item 4300-101-0001 of Section 2.00 of the Budget Act*
 24 *of 2012 is amended to read:*

25
 26 4300-101-0001—For local assistance, Department of Devel-
 27 opmental Services, for Regional Centers.....

	2,314,327,000
	<i>2,339,327,000</i>

28
 29
 30 Schedule:

31 (1) 10.10.010-Operations.....	532,942,000
32 (2) 10.10.020-Purchase of Services.....	3,588,836,000
33 (3) 10.10.060-Early Intervention Pro-	
34 gram.....	20,381,000
35 (4) 10.10.080-Prevention Program.....	2,003,000
36 (6) Reimbursements.....	
37	-1,768,156,000
38	<i>-1,743,156,000</i>

- 1 (7) Amount payable from the Developmen-
- 2 tal Disabilities Program Development
- 3 Fund (Item 4300-101-0172)..... -9,523,000
- 4 (8) Amount payable from the Federal Trust
- 5 Fund (Item 4300-101-0890)..... -52,006,000
- 6 (9) Amount payable from the Developmen-
- 7 tal Disabilities Services Account (Item
- 8 4300-101-0496)..... -150,000

9 Provisions:

- 10 1. Upon order of the Director of Finance, the Controller
- 11 shall transfer such funds as are necessary between this
- 12 item and Item 4300-003-0001. Within 10 working
- 13 days after approval of a transfer as authorized by this
- 14 provision, the Department of Finance shall notify the
- 15 chairpersons of the fiscal committees in each house
- 16 of the Legislature and the Chairperson of the Joint
- 17 Legislative Budget Committee of the transfer, includ-
- 18 ing the amount transferred, how the amount transferred
- 19 was determined, and how the amount transferred will
- 20 be utilized.
- 21 2. A loan shall be made available from the General Fund
- 22 to the State Department of Developmental Services
- 23 not to exceed a cumulative total of \$210,000,000. The
- 24 loan funds shall be transferred to this item as needed
- 25 to meet cashflow needs due to delays in collecting re-
- 26 imbursements from the Health Care Deposit Fund and
- 27 are subject to the repayment provisions of Section
- 28 16351 of the Government Code.
- 29 3. Upon order of the Director of Finance, the Controller
- 30 shall transfer funds as are necessary between this item
- 31 and Item 5160-001-0001 to provide for the transporta-
- 32 tion costs to and from work activity programs of clients
- 33 who are receiving vocational rehabilitation services
- 34 through the Vocational Rehabilitation/Work Activity
- 35 Program (VR/WAP).
- 36 4. \$1,826,000 of the funds appropriated in this item may
- 37 be used to augment service provider rates for the work
- 38 needed to obtain information to secure federal partici-
- 39 pation under the Home and Community-Based Ser-
- 40 vices Waiver program. Eligible providers are those

- 1 service providers who are qualified providers under
 2 Title XIX of the Social Security Act, are not currently
 3 providing the required information, and are serving
 4 individuals enrolled under the Home and Community-
 5 Based Services Waiver program.
- 6 5. Notwithstanding Section 26.00, the Department of
 7 Finance may authorize transfer of expenditure author-
 8 ity between Schedules (1) and (2) in order to more
 9 accurately reflect expenditures in the Early Interven-
 10 tion Program (Part C of the Individuals with Disabili-
 11 ties Education Act).
- 12 6. It is the intent of the Legislature for the State Depart-
 13 ment of Health Care Services and the State Department
 14 of Developmental Services to collaboratively work
 15 with stakeholders, including providers and diverse
 16 constituency groups as deemed appropriate, regarding
 17 the bundling of rates for the reimbursement of interme-
 18 diate care facilities for the developmentally disabled,
 19 including habilitative and nursing facilities. It is the
 20 intent of the Legislature that any changes made by the
 21 state shall be seamless to the providers of services af-
 22 fected by the changes, as well as to the consumers and
 23 their families that are provided services through the
 24 Regional Center system. The integrity of the individual
 25 program plan process described in the Lanterman De-
 26 velopmental Disabilities Services Act (Division 4.5
 27 (commencing with Section 4500) of the Welfare and
 28 Institutions Code) shall be maintained throughout this
 29 process and shall not be affected by any changes made
 30 to implement the bundled rates.
- 31 7. Notwithstanding Section 26.00, the Department of
 32 Finance may authorize transfer of expenditure author-
 33 ity from Schedule (4) 10.10.080-Prevention Program
 34 to Schedule (2) 10.10.020-Purchase of Services to
 35 more accurately reflect expenditures in the Prevention
 36 and Early Start Programs.

37
 38 *SEC. 7. Item 5180-111-0001 of Section 2.00 of the Budget Act*
 39 *of 2012 is amended to read:*

1	5180-111-0001—For local assistance, Department of Social	
2	Services.....	4,438,530,000
3		4,439,035,000
4	Schedule:	
5	(1) 16.70-SSI/SSP.....	2,770,100,000
6	(2) 25.15-IHSS.....	6,234,906,000
7		6,235,916,000
8	(3) Reimbursements.....	-4,566,476,000
9		-4,566,981,000

10 Provisions:

- 11 1. Provisions 1 and 4 of Item 5180-101-0001 also apply
- 12 to this item.
- 13 2. Notwithstanding Chapter 1 (commencing with Section
- 14 18000) of Part 6 of Division 9 of the Welfare and In-
- 15 stitutions Code, a loan not to exceed \$364,000,000
- 16 shall be made available from the General Fund from
- 17 funds not otherwise appropriated, to cover the federal
- 18 share or reimbursable share, or both, of costs of a
- 19 program or programs when the federal funds or reim-
- 20 bursements (from the Health Care Deposit Fund or
- 21 counties) have not been received by this state prior to
- 22 the usual time for transmitting payments for the federal
- 23 or reimbursable share of costs for this state. That loan
- 24 from the General Fund shall be repaid when the federal
- 25 share of costs for the program or programs becomes
- 26 available, or in the case of reimbursements, subject to
- 27 Section 16351 of the Government Code. County reim-
- 28 bursements also shall be subject to Section 16314 of
- 29 the Government Code, which specifies the rate of in-
- 30 terest. The State Department of Social Services may
- 31 offset a county’s share of cost of the In-Home Support-
- 32 ive Services (IHSS) program against local assistance
- 33 payments made to the county if the county fails to re-
- 34 imburse its share of cost of the IHSS program to the
- 35 state.
- 36 3. The State Department of Social Services shall provide
- 37 technical assistance to counties to ensure that they
- 38 maximize the receipt of federal funds for the IHSS
- 39 program, without compromising the quality of the
- 40 services provided to IHSS recipients.

- 1 4. The Director of Finance may authorize the transfer of
 2 amounts from this item to Item 5180-001-0001 in order
 3 to fund increased costs due to workload associated
 4 with the retroactive reimbursement of Medi-Cal ser-
 5 vices for the IHSS program to comply with Conlan v.
 6 Shewry (2005) 131 Cal.App.4th 1354. The Department
 7 of Finance shall report to the Legislature the amount
 8 to be transferred pursuant to this provision and the
 9 number of positions to be established by the State
 10 Department of Social Services. The transfer shall be
 11 authorized at the time the report is made. The State
 12 Department of Social Services shall review the work-
 13 load associated with the Conlan v. Shewry decision
 14 during the 2012–13 fiscal year and may administrative-
 15 ly establish positions as the workload requires.
- 16 5. The Director of Finance may authorize the transfer of
 17 amounts from this item to Item 5180-001-0001 in order
 18 to fund the cost of the administrative hearing process
 19 associated with changes in aid or service payments in
 20 the IHSS program. The Department of Finance shall
 21 report to the Legislature the amount to be transferred
 22 pursuant to this provision. The transfer shall be autho-
 23 rized at the time the report is made.

24
 25 *SEC. 8. Section 39.00 of the Budget Act of 2012 is amended*
 26 *to read:*

27 SEC. 39.00. The Legislature hereby finds and declares that the
 28 following bills are other bills providing for appropriations related
 29 to the Budget Bill within the meaning of subdivision (e) of Section
 30 12 of Article IV of the California Constitution: AB 1465, AB 1466,
 31 AB 1467, AB 1468, AB 1469, AB 1470, AB 1471, AB 1472, AB
 32 1473, AB 1474, AB 1475, AB 1476, AB 1477, AB 1478, AB 1479,
 33 AB 1480, AB 1481, ~~AB 1482~~, AB 1482, AB 1483, AB 1484, AB
 34 1485, AB 1486, AB 1487, AB 1488, AB 1489, AB 1490, AB 1491,
 35 AB 1492, AB 1493, AB 1494, AB 1495, AB 1496, AB 1497, AB
 36 1498, AB 1499, AB 1502, AB 1503, SB 1005, SB 1006, SB 1007,
 37 SB 1008, SB 1009, SB 1010, SB 1011, SB 1012, SB 1013, SB
 38 1014, SB 1015, SB 1016, SB 1017, SB 1018, SB 1019, SB 1020,
 39 SB 1021, SB 1022, SB 1023, SB 1024, SB 1025, SB 1026, SB
 40 1027, SB 1028, SB 1029, SB 1030, SB 1031, SB 1032, SB 1033,

1 SB 1034, SB 1035, SB 1036, SB 1037, SB 1038, SB 1039, SB
2 1040, SB 1041, SB 1042, and SB 1043 *of the 2011–12 Regular*
3 *Session, and AB 112 and SB 67 of the 2013–14 Regular Session.*

4 *SEC. 9. This act is a Budget Bill within the meaning of*
5 *subdivision (e) of Section 12 of Article IV of the California*
6 *Constitution and shall take effect immediately.*

7 ~~SECTION 1. It is the intent of the Legislature to enact statutory~~
8 ~~changes relating to the Budget Act of 2013.~~

O