



June 25, 2023

The Honorable Gavin Newsom  
Governor, State of California  
1021 O Street, Suite 9000  
Sacramento, CA 95814

The Honorable Toni Atkins  
Senate President pro Tempore, California State Senate  
1021 O Street, Suite 8518  
Sacramento, CA 95814

The Honorable Anthony Rendon  
Speaker, California State Assembly  
1021 O Street, Suite 8330  
Sacramento, CA 95814

**Re: AB 120/SB 120 IHSS Fiscal Penalty - Oppose**

Dear Governor Newsom, Senate President pro Tempore Atkins, and Speaker Rendon:

On behalf of the California State Association of Counties (CSAC), California Association of Public Authorities (CAPA), County Welfare Directors Association of California (CWDA), Urban Counties of California (UCC), and Rural County Representatives of California (RCRC), we are writing to express our strong opposition to the provision in the human services budget trailer bill (AB 120/SB 120) that would impose a ten percent ongoing penalty on counties that fail to reach an In-Home Supportive Services (IHSS) collective bargaining agreement. The fiscal penalty proposal ignores the progress that has been made on IHSS collective bargaining, punishes counties that have done the right thing, and will negatively impact funding for other health and human services programs. Our organizations respectfully urge you to remove the IHSS fiscal penalty from this legislation or to amend the language so that the ten percent ongoing penalty only applies after a county has already received the existing one-time seven percent penalty.

### **No Transparency with this Proposal**

This increased IHSS collective bargaining proposal was added into the human services budget trailer bill with zero public transparency or input. An IHSS penalty proposal was not on the agenda or discussed at any budget hearings that occurred in 2023. It was not included in the Governor's January Budget, the Governor's May Revision, or the Legislative Budget agreement (AB 101/SB 101). It was drafted and put into print with zero consultation to the county entities that administer the IHSS program. A proposal of this magnitude should be discussed in public hearings and include input from all impacted stakeholders.

### **Proposal Ignores Progress that has Occurred and Punishes All Counties**

Counties are reaching new collective bargaining agreements far above the historic pace. A total of 53 counties have increased wages since 2017. These counties have invested hundreds of millions of dollars for these wage increases and will pay these costs on an ongoing basis. In total, more than 98 percent of the IHSS provider workforce has received a permanent wage increase agreed to and funded by counties in this time period. However, all of those counties that did the right thing and increased wages would now be eligible to be punished by the ten percent ongoing penalty proposal.

### **Penalty Amount is Inappropriate**

A ten percent ongoing penalty would cost about as much as a \$1.00 wage increase. This represents millions of dollars in large counties and tens of thousands to hundreds of thousands in smaller counties. In counties that have gone to fact finding, the neutral fact finder has recommended wage increases that cost less than the penalty amount. It is completely inappropriate to have a penalty amount that costs more than the amounts that neutral factfinders have indicated is an amount a county could fit within its county budget.

### **Penalty will be Leveraged in Local Bargaining and Negatively Impact Other Safety Net Programs**

This ten percent penalty amount will be used to leverage all counties into agreeing to larger wage increases. Many of these wage increases can only be afforded by taking funding from other programs. This creates risks for other programs within Realignment including social services, public health, and behavioral health programs.

Under this proposal, a county could follow all applicable laws, negotiate in good faith, and offer IHSS providers a wage increase. However, if the provider union doesn't accept that proposal, a county could be punished with a ten percent ongoing penalty even though the county did everything within its power and budget to increase pay for IHSS providers and potentially even if the neutral fact finder recommends a wage increase that would cost less than the ten percent penalty. This proposal gives the IHSS provider union all of the leverage in a local bargaining situation.

The proposal to essentially mandate a \$1.00 increase is especially concerning given that the current 1991 Realignment revenue projections indicate there will be no caseload growth available in the coming year. This means there is projected to be no funding available to cover county IHSS costs for wage increases that have already been agreed to through local agreements. One of the goals of the Department of Finance's SB 90 1991 Realignment report was to fit the county IHSS MOE within Realignment so that county IHSS costs would not take away Realignment funding from health and behavioral health programs. By setting up a situation where all counties will be leveraged into a \$1.00 increase that will not fit within Realignment, especially given the current revenue projections, this will negatively impact funding for health and behavioral health programs counter to the goals of the Administration's effort with rebasing the county MOE in 2019.

### **Proposal Represents the State Dictating the Results of Local Bargaining**

The proposal is wholly inappropriate because it would represent the state tipping the scales and dictating the results of local collective bargaining, even though the state has vested counties with this responsibility. This high penalty amount essentially represents the state mandating and requiring counties to fund at least a \$1.00 wage increase above their current wage. If the state is interested in dictating the outcome of bargaining or mandating a higher wage for IHSS providers, then it should assume responsibility for collective bargaining or provide dedicated state revenues for mandated increases.

In fact, the state will be separately undertaking a study outlined by language in the Budget Act (AB 102/SB 102) to analyze the possibility of transitioning IHSS collective bargaining to the state. A prudent approach would be to wait for the results of this analysis to determine the best path forward on collective bargaining instead of enacting this punitive proposal.

### **Proposed Penalty Must be Altered**

While our organizations strongly oppose the penalty and ask for its removal from AB 120/SB 120, we recognize that the Administration and the Legislature have agreed to an increased penalty framework and are thus proposing an alternate proposal. The proposed amendments that we have drafted and shared with the Administration and Legislature would make the ten percent ongoing penalty apply only after a county has already received the existing seven percent one-time penalty. There is room for a reasonable compromise that will provide an increased penalty for those counties that fail to reach an agreement, but that will not punish all other counties as unfairly as the ongoing ten percent amount.

### **Conclusion**

Counties are committed to the IHSS program and proud to partner with the state on this important program that serves more than half a million individuals. Our members recognize the value of the IHSS program, which provides critical services to seniors and disabled individuals to help them remain in their own homes rather than in more expensive institutional care. County social workers, Public Authority workers, and IHSS providers are the backbone of this social services program which has proven to reduce care costs and improve the well-being of residents. The vast majority of counties have recently increased wages for IHSS providers and now is not the time to engage in a punitive measure that punishes all counties.

Our organizations respectfully request that the increased and ongoing IHSS fiscal penalty be removed from the human services trailer bill or altered to only apply after a county has already been assessed the existing penalty. Should you have any questions about our position, please do not hesitate to contact us. Thank you for your consideration.

Respectfully,



Graham Knaus  
CSAC



Kelly Brooks-Lindsey  
UCC



Sarah Dukett  
RCRC



Kim Levy Rothschild  
CAPA



Cathy Senderling-McDonald  
CWDA

cc: Nancy Skinner, Chair, Senate Budget and Fiscal Review Committee  
Phil Ting, Chair, Assembly Budget Committee  
Honorable Members, Senate Budget and Fiscal Review Committee  
Honorable Members, Assembly Budget Committee  
Joe Stephenshaw, Director, Department of Finance  
Kim Johnson, Director, Department of Social Services