



## **Recommendations**

from the  
Napa County  
In-Home Supportive Services (IHSS)  
Advisory Committee  
to the  
Napa County Board of Supervisors

**Regarding the Selection of a  
Mode of Service for  
Napa County IHSS**

**December, 2001**



**Committee Members from left to right are Nancy Johnson, Randy Kitch, Sally Lacau, Rhoda Wolfson, Joice Beatty, and Diane Ballard**

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**Committee Members  
Appointed by the Board of Supervisors**

Linda Allum  
Joice Beatty  
Margaret Doss  
Randy Kitch  
Melissa Mattos

Diane Ballard  
Blaine Cherrington  
Nancy Johnson  
Sally Lacau  
Rhoda Wolfson

**Current Committee Members**

Joice Beatty, Chair  
Nancy Johnson, Vice-Chair  
Randy Kitch, Corresponding Secretary  
Diane Ballard  
Sally Lacau  
Rhoda Wolfson

## Executive Summary

“IHSS (In-Home Supportive Services) is an alternative to out-of-home care and provides basic services to persons who cannot perform them for themselves.”

*California Department of Social Services*

### Introduction

Providing care and support for those individuals who wish to stay in their own homes is a critical and difficult job. Low wages and benefits for caregivers have created high turnover and have made it difficult for many people who need IHSS services to hire and keep quality workers. In response to this crisis, the California Legislature passed into law a requirement that all counties must identify an employer-of-record for IHSS workers no later than January 1, 2003.

This requirement allows IHSS workers the right to organize themselves into a bargaining unit and to negotiate wages and benefits with their employer. The expected outcome is a more stable and higher quality workforce.

The new law also requires all Counties to establish an IHSS Advisory Committee. This Committee acts as an advisory group to each local Board of Supervisors (BOS) on how IHSS services are working for local citizens who use the program.

Most important, each Committee has been given the responsibility of recommending to the BOS a mode (or modes) of IHSS service delivery that will work best for local consumers. This report is provided to the Board in order to meet that requirement of the law.

The report will provide the Board with a brief review of the background for our decision, the different options we have studied and our recommendations. We hope that you will find the report easy-to-understand and useful as you make your decision about the IHSS mode of service and employer-of-record.

*Napa County IHSS Advisory Committee*

## Summary of Recommendations

After considerable study and discussion, the Committee recommends the following to the Board (discussed in more detail in Chapter 4):

- a Mixed Mode of service for IHSS consumers (Recommendation 1);
- use of Individual Providers as the primary mode and Contract(s) as a 'supplemental' (as needed) mode (Recommendation 2);
- the County take responsibility for contracted services using its established contracting process (Recommendation 3);
- Health and Human Services develop a policy regarding referral of consumers to Individual or Contract Provider (Recommendation 4);
- a Public Authority (PA) be established as the employer-of-record for Individual Providers (Recommendation 5);
- the Board of Supervisors act as the governing body of the PA for at least two years (Recommendation 6);
- implementation planning to begin by February 1, 2002 and end with the submission of a rate application packet to the State by May 1, 2002 (Recommendation 7);
- to begin operation as a Public Authority On July 1, 2002 (Recommendation 8);
- the planning team include appropriate representatives of the County's Administrator, Health and Human Services, Human Resources, Counsel, and Fiscal, and Public Works departments (Recommendation 9);
- representatives of the planning team meet with the Committee on a monthly basis (Recommendation 10);
- Committee members attend planning team meetings on an open invitation basis (Recommendation 11);
- Committee members review the draft implementation plan and make recommendations to the Board regarding content (Recommendation 12);

## Findings and Recommendations Regarding the Selection of a Mode of Service

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- current Committee bylaws be changed to reduce number of members to nine (9) and remove age requirements (Recommendation 13); and
- current Committee bylaws be changed to provide a stipend to Advisory Committee members (Recommendation 14).

## AB 1682 By the Numbers

(California Department of Social Services)

1/1/03	Date on which counties must be in compliance with AB 1682,
2	AB 1682 requirements: (1) AB 1682 Advisory Committee and (2) Employer of record.
11	Maximum allowable number of AB 1682 Advisory Committee members.
2	Minimum number of AB 1682 Advisory Committee members if county has fewer than 500 recipients: one current or former provider and one current or former recipient.
4	Minimum number of AB 1682 Advisory Committee members if county has more than 500 recipients: two current or former providers and two current or former recipients.
0	Number of AB 1682 Advisory Committee members who must by law be county residents.
2	Potential number of legally required advisory committees related to IHSS that could exist in county: AB 1682 Advisory Committee and, if the county creates a public authority and the board of supervisors serves as the governing board, a public authority advisory board.
1	Number of county IHSS advisory committees the State is allowed by law to fund.
\$53,000	Baseline funding available to each county in FY 00/01 budget to fund the AB 1682 advisory committee, which has been determined to be a State mandate.
6	Number of options available to counties to meet AB 1682 employer of record requirement:  County acts directly Public Authority* (individual provider mode) Non profit consortium* (individual provider mode) Contract(s) with private agencies County employs IHSS providers A combination of the above options

\*Counties with an IHSS caseload of 500 or fewer are not required to offer these options under AB 1682.

## Chapter One: Some Background Information

### Overview of IHSS Services

**Introduction.** Napa County provides In-Home Supportive Services (IHSS) to qualified individuals who may be aged, blind, or disabled to help them remain safely in their homes and to avoid institutionalization. The IHSS program is a state mandated program and funded by a combination of federal, state and local money. It is regulated by the California Department of Social Services (CDSS) and locally implemented by Napa County Health and Human Services Agency (HHS). An overview of IHSS program implementation is as follows:

**What is the service?** IHSS places aides in the homes of eligible persons to provide them with domestic and personal assistance such as housecleaning, cooking, shopping, feeding, bathing, and transportation.

**Why is it needed?** To keep people living in their own homes in the community and prevent their having to go into institutional care; and to avoid the higher expense of out of home care.

**Who is eligible?** An IHSS recipient must (1) live in an owned or rented home in the community; (2) be permanently disabled, aged, or blind; (3) be at risk for institutionalization if support was not provided; and (4) be a recipient of public assistance or be low income.

**How many people are served?** Approximately 400 Napa County residents currently receive IHSS assistance from some 430+ individual providers.

**What is the cost?** Total cost of the IHSS program in Napa County is approximately \$3.5 million per year. Of this amount, approximately \$700,000 is county money. These dollars are matched on a ratio of approximately 4:1 by state and federal funding. The exact ratio of local, state, and federal funds varies from participant to participant, according to federal guidelines regarding 'match' formulas.

**How does it work?** IHSS personal care assistants can be either unrelated employees or qualifying family members. At the present time, the IHSS service user or consumer is technically the employer (however, state law is requiring that this change in the next two years). Although the service user is the employer, personal care assistants turn their timesheets in to county staff, who review and enter the time into a computerized payroll system operated by SDSS. That system issues checks and maintains accounts regarding taxes and mandated fringe benefits.

**Who staffs the program?** At present, IHSS staff (who work for HHSA) consists of three social workers, one fiscal worker, and a supervisor who provides supervision to other units and programs as well. The responsibilities of staff include:

- assessment of persons applying for IHSS to determine fiscal and program eligibility based on the applicant's need for support;
- determination of the number of IHSS hours per month to which an applicant is entitled under state regulations (ranges up to 283 hours per month);
- at the request of an applicant, assistance with the recruitment of a personal care assistant;
- setting up payroll and process payment requests from workers;
- visiting each recipient at least annually to reassess need for support; and
- liaise with staff from Adult Protective Services, Mental Health Case Management and other county and community based programs as needed.

## Overview of AB1682

**Introduction.** High turnover, low wages and benefits have made it difficult for many people who need IHSS services to hire and keep quality workers. In response to this crisis, California enacted into law Assembly Bill 1682 (Chapter 90, Statutes of 1999) which requires all counties to:

- act as or to establish a *employer of record* for IHSS providers no later than January 1, 2003;
- choose the mode or modes of service for IHSS employment;
- appoint an IHSS Advisory Committee comprised of no more than 11 individuals;
- appoint no less than 50 percent of the membership, individuals who are current or past users of personal assistance services paid for through public or private funds or as recipients of services; and
- request input from the Committee in designating an *employer of record* and designing an IHSS program to best meet the needs of the consumers of service, service providers, and the community.

A more detailed summary of the law is as follows:

**What is the current system of employment for IHSS care givers in Napa County?**

As previously mentioned, eligible consumers find a personal care assistant willing to provide the service. Some people are able to arrange for a family member to provide necessary care while others hire unrelated care givers on their own or with assistance from IHSS staff. The IHSS unit also maintains a registry of potential caregivers as needed. The county processes time records and the state provides payroll services, workers compensation insurance and mandated payroll deductions. At present, the cost of payroll services are shared by the county, state, and federal governments.

**How will the law change the employment system?** By January, 2003 "each county shall act as, or establish, an employer for in-home supportive service providers..." If the county does not wish to become the employer itself, the law allows certain alternatives, which it refers to as "modes of service." These include creation of a public authority, developing a contract for services, contracting with a consortium of non-profit agencies, or joining with neighboring jurisdictions to create a regional authority. For a public authority, the governing board may be the same as or different than the composition of the board of supervisors. [See: WIC §§ 12302.25, 12301.6]

**Potential Impacts?** One of the purposes of AB 1682 is to allow IHSS workers to engage in collective bargaining. As stated earlier, Napa County's program currently pays IHSS workers at or slightly above minimum wage. It is believed that some recipients of service have to make "side payments" to recruit and keep care providers. The new law may enable personal care assistants to negotiate higher wages; and it may relieve some recipients of the cost of "under the table" incentive payments. Under the new law, the county is responsible for its share of any increases due to an increase in state or federal minimum wage requirements. For other increases, the county will be reimbursed to the extent the increases exceed the amount of savings resulting from federal participation in certain types of cases. The fiscal impact of this provision in will be reviewed in Chapter Three of this report. [See: WIC § 12301.8]

## **The Role of the IHSS Advisory Committee**

An advisory committee must be created to "submit recommendations to the county board of supervisors on the preferred mode or modes of service to be utilized in the county for in-home supportive services." Once an employer-of-record has been established, the committee is to "provide ongoing advice and recommendations" to the board of supervisors, to the county departments involved in the delivery and administration of the program, and to the boards of any other agencies or contractors involved in the delivery of services. [See: WIC § 12301.3, 12301.4]

**More AB 1682 By the Numbers**  
(California Department of Social Services)

<b>2</b>	Number of options for meeting AB 1682 that carry statutory liability protections for negligence or intentional torts of IHSS providers: (1) public authority; (2) non profit consortium.
<b>200%</b>	Per cent of the state minimum wage up to which the State and federal government will share in a public authority or non profit consortium rate.
<b>3</b>	Number of components of a public authority or non-profit consortium-rate: Provider wage, administration, benefits (if provided).
<b>51%</b>	Approximate federal share in a public authority, non-profit consortium, contract or homemaker rates/costs when service is Medi-Cal covered.
<b>0%</b>	Federal share in a public authority, non-profit consortium and contract rates or homemaker costs when service is not Medi-Cal covered.
<b>65%</b>	State share of non-federally funded portion of public authority, non profit consortium and contract rates or homemaker costs.
<b>35%</b>	County share of non-federally funded portion of public authority, non-profit consortium and contract rates or homemaker costs.

**Important Welfare & Institutions Code Sections**

- 12301.3 & 12310.4 - IHSS (AB 1682) advisory committee requirements
- 12301.6 - Public authority/non-profit consortium authorizing law.
- 12301.7 -- Public authority/non-profit consortium administrative cost sharing
- 12302.25 - AB 1682 requirements

## Chapter Two: An Overview of Our Options<sup>1</sup>

### AB 1682 Options for Counties

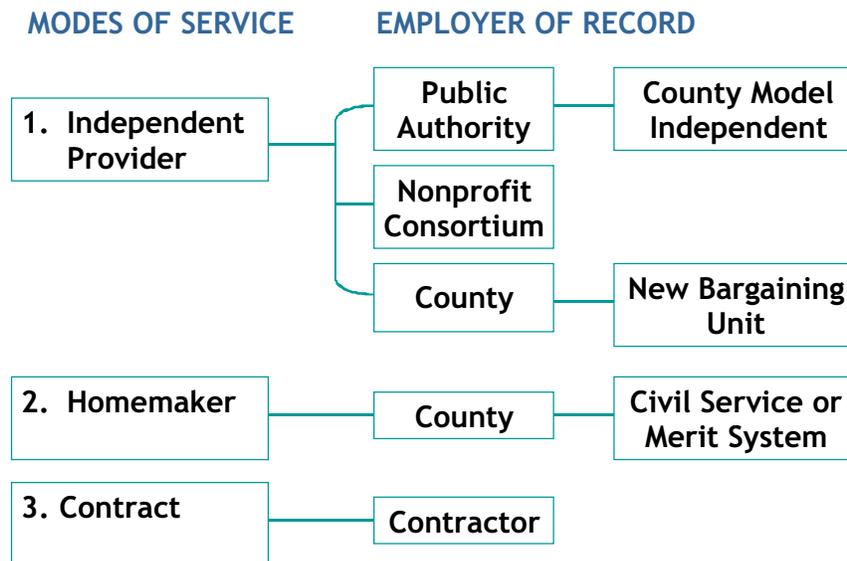


Figure 1

### Introduction

As seen above (Figure 1), AB 1682 provides Counties with three primary options for modes of IHSS service. These modes of service, in turn, create options for designating an employer-of-record. Below, you will find a brief overview of the Individual Provider, Homemaker, and Contract modes of service.

**Individual Provider Mode.** In this mode of service:

- County IHSS social workers determine the eligibility for in-home services and the number of hours of service that a consumer will receive;
- consumer locates, hires, trains, fires, and directs the Individual Provider;
- employer-of record can be a public authority, a nonprofit consortium, or the county; and
- support is provided in selecting, training and supervising by the employer-of-record as needed and requested by the consumer.

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<sup>1</sup> Much of the information in Chapter Two and Chapter Three of this report was adapted from material provided by Contra Costa and Santa Cruz Counties as well as Eldon Luce Consulting.

**Homemaker Mode.** In this mode of service:

- County IHSS social workers determine the eligibility for in-home services and the number of hours of service that a consumer will receive;
- County employs homemakers who provide all services authorized;
- consumers have the right to request a change in workers; and
- County serves as the employer-of-record and hires, fires, trains and supervises these employees.

**Contract mode.** In this mode of service:

- County IHSS social workers determine the eligibility for in-home services and the number of hours of service that a consumer will receive;
- Counties contract directly with private agencies to provide IHSS services;
- contract agency is responsible for providing all services as authorized by the County IHSS social worker at the time and frequency needed;
- contractor is responsible for hiring, firing and supervising the contract employees and serves as the employer-of-record; and
- consumer has the right to request a change in workers.

The remainder of this Chapter provides more information about all three modes and corresponding options for employer-of-record.

### Individual Provider (IP) Mode of Service

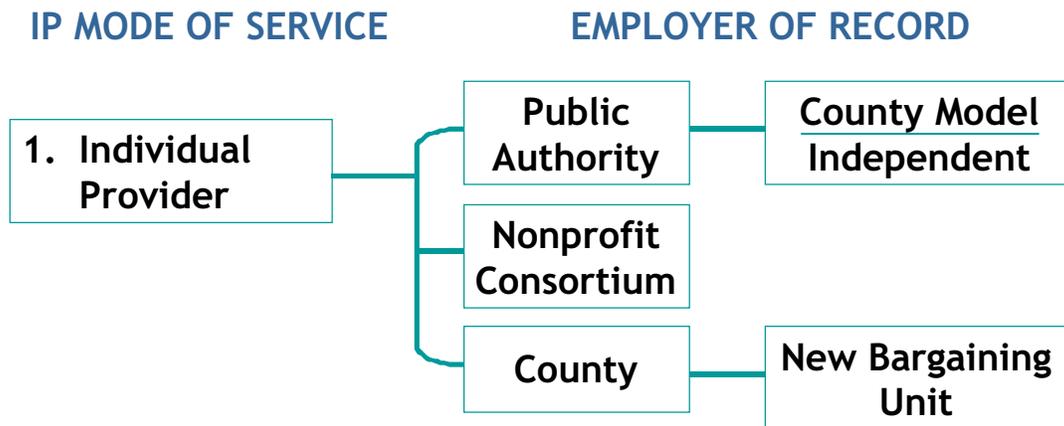


Figure 2

**Introduction.** The law states that any Counties with more than 500 IHSS consumers are required to offer an Individual Provider employer option if one consumer requests it. It also states that IHSS hours of service cannot be reduced in this mode (or any other) from the number required by assessment guidelines. This mode of service has been selected by most counties in response to the mandate of AB 1682.

**Who can be an Individual Provider?** An individual provider may be a spouse (except that an 'able and available spouse' cannot be paid for domestic services), adult child, or other relative, friend, neighbor, or any other person selected and supervised by the IHSS consumer.

**Who is the employer-of-record for the Individual Provider?** While the employer-of-record can be any of three options (public authority, nonprofit consortium, or the County), employer responsibilities are divided among the consumer, the state, and the county departments that administer IHSS.

That is, the consumer serves as the employer for the purposes of selecting, hiring, supervising, and, if necessary, firing the individual provider. He or she also signs off on the timesheet, which is submitted to the county IHSS Department and forwarded to the State Controller's Office, which sends the paycheck to each worker.

The County through its IHSS social workers who establish eligibility, set the maximum monthly hours of service and authorize types of tasks that each consumer may receive. Finally, the administrative structure (e.g. County, Contractor, Nonprofit Consortium, or Public Authority) serves as the employer for the purpose of collective bargaining regarding wages and benefits representing IHSS independent provider workers.

**Individual Provider from Three Perspectives**

Consumer Perspective	Provider Perspective	County Perspective
<ul style="list-style-type: none"> <li>✦ The right to recruit, select, train, supervise, and fire workers</li> </ul>	<ul style="list-style-type: none"> <li>✦ 'Employed' by consumer</li> <li>✦ Freedom to choose consumer 'employer'</li> <li>✦ Access to training</li> <li>✦ Wages and benefits through collective bargaining</li> </ul>	<ul style="list-style-type: none"> <li>✦ IHSS eligibility, assessments and reassessments</li> <li>✦ Authorization of tasks and hours</li> <li>✦ Social work/case management</li> <li>✦ Provider payroll function</li> <li>✦ Funding and monitoring roles vary depending on the employer-of- record</li> </ul>

**Role of an Administrative Body for Independent Providers.** There are a number of required activities for the administrative body (County, Public Authority, Nonprofit Consortium) using the IP mode:

- ✦ establishment and/or maintenance of a registry or providers and consumers;
- ✦ establishment of a referral system based on the registry;
- ✦ investigation of qualifications and background checks (required, but varies from County to County);
- ✦ access to training for providers and consumers; and
- ✦ performing any other related functions (for example, mentoring new providers)

### Homemaker Mode



Figure 3

**Introduction.** In this mode of service delivery, the County employs homemakers who provide all services authorized by the IHSS social worker. County serves as the employer-of-record for these employees and hires, fires, trains and supervises them. They are employed under the same civil service or merit system as other County employees. This option has been used in a small and rural county (El Dorado) where locating enough individual providers is difficult.

### Homemaker Mode from Three Perspectives

Consumer Perspective	Provider Perspective	County Perspective
<ul style="list-style-type: none"> <li>✦ Consumer has say in selection, training, rejecting, or changing any provider</li> </ul>	<ul style="list-style-type: none"> <li>✦ Providers are employees of the county</li> <li>✦ Hiring in accordance with established county civil service requirements</li> <li>✦ Wages and benefits through collective bargaining</li> </ul>	<ul style="list-style-type: none"> <li>✦ IHSS eligibility, assessments and reassessments</li> <li>✦ Authorization of tasks and hours</li> <li>✦ Social work/case management</li> <li>✦ Provide, fund and manage sufficient workforce to meet consumer needs</li> </ul>

### Contract Mode

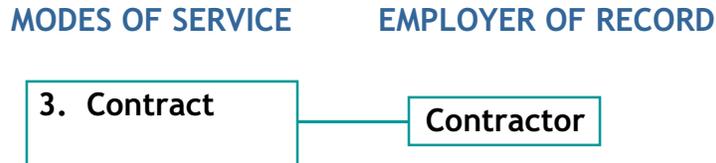


Figure 4

**Introduction.** This mode of IHSS service delivery is used (either as a ‘supplemental’ mode or the ‘primary’ mode) by at least 12 counties statewide. Counties contract directly with private agencies to provide IHSS services (using a maximum allowable contract rate established by the State). Contracts are established through a Request-for-Proposal process. The contract agency is responsible for providing all services as authorized by the County IHSS social worker at the time and frequency needed. The contractor is the employer-of-record and is responsible for hiring, firing and supervising the contract employee.

### Contract Mode from Three Perspectives

Consumer Perspective	Provider Perspective	County Perspective
<ul style="list-style-type: none"><li>✦ Consumer has say in selection, training, rejecting, or changing any provider</li></ul>	<ul style="list-style-type: none"><li>✦ Providers must become employees of the contractor</li><li>✦ Wages and benefits through collective bargaining</li></ul>	<ul style="list-style-type: none"><li>✦ IHSS eligibility, assessments and reassessments</li><li>✦ Authorization of tasks and hours</li><li>✦ Social work/case management</li><li>✦ Contract monitoring and contractor payment</li></ul>

### A Summary of the Modes by Perspectives

	Homemaker Option	Contractor Option	Individual Provider
<b>Consumer perspective:</b>			
Consumer can select, train, reject, or change any provider			X
Consumer has more limited say in selection, training, rejecting, or changing any provider	X	X	
<b>Provider perspective:</b>			
Providers are employees of the county	X		
Hiring in accordance with established county civil service requirements	X		
Must become employee of contractor		X	
'Employed' by consumer	X	X	X
Freedom to choose, reject employer			X
Access to training	X	X	X
Wages and benefits through collective bargaining	X	X	X
<b>County perspective:</b>			
IHSS eligibility, assessments and reassessments	X	X	X
Authorization of tasks and hours	X	X	X
Social work/case management	X	X	X
Provide, fund and manage sufficient workforce to meet consumer needs	X		
Contract monitoring and contractor payment		X	
Provider payroll function	X		X
Funding and monitoring Interagency Agreement or contract		X	X

Table 1

### **A Note on Our Committee Process**

This report is presented in a way that reflects our Committee process. That is, we first learned about AB 1682 and the role of our Advisory Committee (Chapter One). Next, we spent a number of meetings learning about the different options that the County could consider (Chapter Two). In those sessions, we also talked about the strengths and weaknesses of each option (Chapter Three). Finally, we reached consensus on the best path for Napa County and developed the recommendations found in Chapter 4 of this report.

## Chapter Three: What We Found Out

### What We Found Out About the Individual Provider Mode

Strengths	Weaknesses
<ul style="list-style-type: none"> <li>✦ Increased wages will increase the pool of available providers</li> <li>✦ Provider benefits are typically available</li> <li>✦ Consumer will have choice in selecting, training, scheduling supervising or firing providers with support as needed</li> <li>✦ Providers will have choice of who to work with as well</li> <li>✦ Providers will have greater access to training and education</li> <li>✦ Collective bargaining for providers</li> <li>✦ A referral registry is required</li> <li>✦ There is a background investigation of providers</li> <li>✦ Almost identical to current service delivery system in Napa County</li> <li>✦ The administrative body (for example, public authority, nonprofit coalition) assumes liability coverage for the providers</li> <li>✦ Increased percentage of State share of funding</li> <li>✦ Advance pay for the administrative structure is available</li> <li>✦ There are existing programs in a number of counties to evaluate and learn from</li> </ul>	<ul style="list-style-type: none"> <li>✦ Not all consumers have ability to take on the 'employer' responsibilities for selecting, training, supervising, and scheduling</li> <li>✦ There is a lot of variability in the way the different counties perform background investigations</li> </ul>

### What We Found Out About the Homemaker Mode

Strengths	Weaknesses
<ul style="list-style-type: none"> <li>✦ Wages &amp; benefits would be attractive to providers</li> <li>✦ Recruiting, hiring, scheduling, and supervising done by County</li> <li>✦ Collective Bargaining for providers</li> <li>✦ Subject to County disciplinary process</li> </ul>	<ul style="list-style-type: none"> <li>✦ Provider must become employee of County</li> <li>✦ May limit who can be a provider (civil service process)</li> <li>✦ May limit choice of provider by consumer if not eligible for civil service position</li> <li>✦ There appears to be less liability protection for County</li> <li>✦ Less provider say in clients served</li> <li>✦ More costly to county than other modes</li> </ul>

### What We Found Out About the Contract Mode

Strengths	Weaknesses
<ul style="list-style-type: none"> <li>✦ Collective Bargaining for providers</li> <li>✦ Some consumer ability to select, train, and schedule provider</li> <li>✦ Liability coverage is required by the State</li> <li>✦ Training would be provided by the contractor</li> <li>✦ Recruitment, hiring, scheduling, and monitoring of employees by contractor</li> <li>✦ Payroll function can be assumed by the contractor (although the money still passes through the County to the contractor)</li> </ul>	<ul style="list-style-type: none"> <li>✦ Provider must become employee of contract agency which may limit the pool of potential providers and choice for consumers</li> <li>✦ There is not enough funding to allow all IHSS consumers to use contract care in other than small counties</li> <li>✦ This is the most costly mode of service</li> <li>✦ Flexibility in operations may be limited because of state contract language</li> <li>✦ Less consumer ability to control scheduling and supervision of provider</li> <li>✦ County responsibility to monitor the contract in terms of liability coverage</li> <li>✦ It may mean limited hours of service availability</li> <li>✦ The contractor is required, but may not be able to maintain an adequate work force</li> </ul>

## A Fourth Option

**Introduction.** As you can see from the information above, there are strengths and weakness with all of the modes of service. However, the law also allows for what is called a mixed mode of service. That is, a County may use more than one mode and may identify more than one employer-of-record. The key is that all IHSS workers must have the ability to collective bargain with an employer. Here is what a mixed mode might look like:

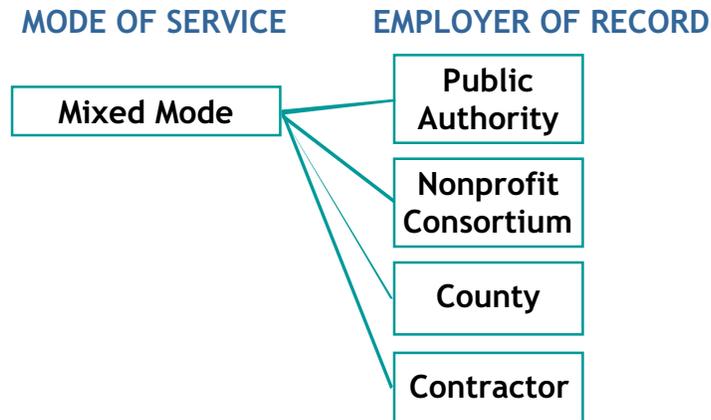


Figure 5

**An Example.** The Santa Cruz County IHSS Committee recommended to their Board and the Board approved a “mixed mode” of Independent Provider and Contract care for consumers. They will designate a Public Authority and a Contractor as employers-of-record. For at least one year, the County will retain the responsibility for procurement and monitoring of contract services (and use the RFP process to do so). A referral to either Individual Provider or Contract modes will be based on consumer need (in hiring, maintaining, training support workers). Finally, training on service options and emergency back-up services so that consumers may make ‘informed’ decision as to which mode of service meets their needs.

## What We Found Out About the Mixed Mode

Strengths	Weaknesses
<ul style="list-style-type: none"> <li>▪ Not all consumers have ability to act as the 'employer' for selecting, training, supervising, and scheduling, this allows for another option (for example, contract, homemaker)</li> <li>▪ Consumers can decide which option (for example, public authority or contract) and can change options</li> <li>▪ Some consumers can have a mixed mode of service depending on support needs (for example, contract for special nursing needs)</li> <li>▪ Providers still have the option to develop a collective bargaining unit</li> </ul>	<ul style="list-style-type: none"> <li>♦ The County has responsibility to monitor more than one employer of record</li> <li>♦ There must a reasonable process for helping consumers determine which mode of service (for example, individual provider, contract) is the best 'fit' for them</li> <li>♦ There must be agreements that prevent duplication of effort between employers of record (for example, registry, training)</li> <li>♦ It may be difficult to find a contractor in a 'small use' county</li> </ul>

## What We Found Out About the Costs of Different Modes

After we studied the options and the strengths and weaknesses of each, we learned about the costs of each mode as they relate to Napa County. The Committee was provided with an analysis prepared by Health and Human Services staff as a 'starting point' for discussion purposes. Here are the assumptions that staff used to develop this cost analysis:

1. the figures in the initial estimates will require adjustment once a mode-of-service and employer-of-record are identified by the Board of Supervisors;
2. the analysis was based on 2000-2001 hours of use by IHSS consumers; and
3. they reflect only the basic cost of wages (\$7.50 an hour to qualify for State and Federal shares) and do not include the costs of benefits to providers (to be negotiated if a bargaining unit is created by IHSS workers, benefit packages in the Bay Area range from \$.47 to \$1.01 per provider hour of service).

What we learned is that there will be an additional expense to the County in order to comply with AB 1682. This increase is the additional County share of cost of wages (and benefits if negotiated) needed for IHSS caregivers as well as the administrative costs of the public authority and contract monitoring. In general, here is what we learned about the costs of each mode:

**Individual Provider Mode**

If a Public Authority is selected as the employer-of-record, it is one of the least expensive modes of service. That is, it contains the highest rate of share of cost by the state and federal governments. There is no comparative fiscal data available for administration by a nonprofit consortium as no county has selected this option. If the County were to develop a new bargaining unit for these workers, cost would be higher than the Public Authority option in that share of cost would be less. Also, there may be additional vulnerability for the County in terms of liability.

**Contractor**

The rate for IHSS workers in Napa County under the contract mode is estimated to be \$12 per hour (this rate would be fixed by the State and would include wages, benefits and administrative overhead). It is considered to be the most expensive of the modes to operate.

**Homemaker**

There is no comparative financial data available for determining the cost of this mode. If the county were to consider this option, it would mean hiring about 500 new civil service employees. It would likely be the one of the more expensive mode.

**Mixed Mode**

Staff reported on the costs of a mixed mode that would include individual provider and contract modes. It was reported that approximately 10% of Napa County’s current IHSS consumer might benefit from a contract mode of service. Also, it was noted that the projected expense for this option would be similar, but higher than the Individual Provider mode (due to the additional cost of contract administration and monitoring).

**Table 2  
Estimates of Cost by Mode of Service**

Mode of Service	Current County Share of Cost	Projected County Share of Cost
Individual Provider (current County model)	\$852,332	
Individual Provider only with Public Authority acting as employer-of-record		\$1,213,973
Contract only with Contractor acting as employer-of-record		\$1,459,518
Mixed Mode (Individual Providers with Public Authority as employer-of-record for 90% of consumers and a Contract mode and employer-of-record for 10% of consumers)		\$1,249,519



## Chapter Four: Our Recommendations

### Introduction

After we studied the strengths, weaknesses and costs of options for the County, we started our discussion of recommendations. Our first discussion resulted in the elimination of the Homemaker mode for consideration because of the enormous cost to the County of adding 500 employees. The Contract mode for services to all consumers was also taken off of the table because of the cost and the limitation of consumer control. The County mode was discussed, however, the unknown costs and the possibility of increased liability suggested it was also not an attractive option.

This left the Committee with looking at the Individual Provider mode or a mixed mode of using both the Individual Provider and Contract modes. The following pages are our recommendations based on those discussions.

#### **Recommendation 1.**

The Advisory Committee recommends to the Board that a mixed mode of service for IHSS consumer be selected.

#### **Recommendation 2.**

The Committee recommends that the Individual Provider be selected as the primary mode of service and the Contract mode be used as a 'supplemental' mode on as needed basis.

#### **Recommendation 3.**

The Committee recommends that the County take responsibility for any contracted service using its established contracting process.

#### **Recommendation 4.**

The Committee recommends that the Health and Human Services Agency develop a policy regarding referral of consumers to Individual or Contract Provider modes of service.

The above four recommendations will provide IHSS consumers with the most choice regarding workers. It will also allow an additional option for those consumers who need additional support in hiring, training, and supervising workers. Once selecting an Individual Provider or Contract mode, IHSS consumers should retain the right to move to the other mode of service or to request a mixed mode of services. The Committee also suggests that the County consider more than one contract, so that there will be flexibility in meeting consumer needs.

While not requested specifically to do so, the Committee makes the following recommendations regarding an employer-of-record. As noted in previous chapters, mode of service and employer-of-record are closely linked.

**Recommendation 5.**

The Committee recommends that a Public Authority (PA) be established as the employer-of-record for Individual Providers in Napa County.

**Recommendation 6.**

The Committee recommends that the Napa County Board of Supervisors act as the governing body of the PA for at least the first two years of operation.

At the end of two years, the Board can re-evaluate its role as governing body and discuss the possibility of creating a stand-alone governing body. Organizationally, that could look like the following:

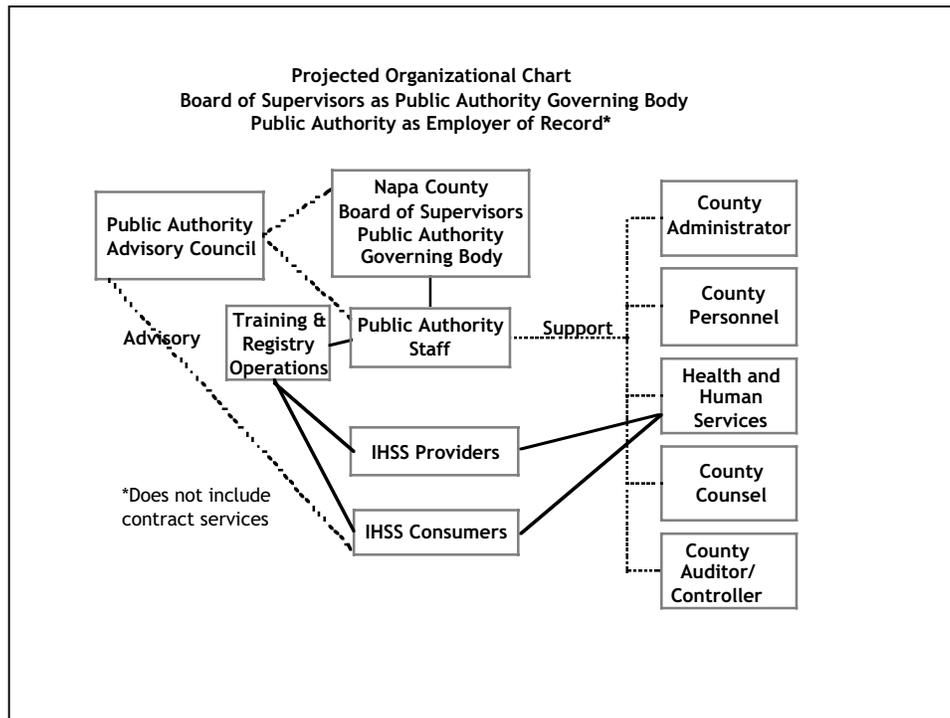


Figure 6

In discussing our recommendations for a governing body, we used the following analysis provided by Santa Cruz County and Eldon Luce Consultants:

AB 1682 describes two models of governance for public authorities. The following PA models are established by a Board of Supervisors Ordinance and do not require a competitive bid process:

**County PA Model:** Board of Supervisors acts as the PA governing body with a consumer majority advisory body appointed by the Board of Supervisors.

**Stand-alone PA Model:** Independent PA with a consumer governing Board appointed by the Board of Supervisors.

Here are the strengths of both models of governance:

County Model	Stand-alone Model
<ul style="list-style-type: none"> <li>• Actions of Board of Supervisors indicate support on issues related to IHSS consumers and providers</li> </ul>	<ul style="list-style-type: none"> <li>• Consumer majority group is a policy setting body therefore policy approval not required by Board of Supervisors</li> </ul>
<ul style="list-style-type: none"> <li>• The Advisory committee provides a check and balance to the County and the Public Authority</li> </ul>	<ul style="list-style-type: none"> <li>• Policy decisions may be made more quickly</li> </ul>
<ul style="list-style-type: none"> <li>• Closer working relationship afforded with County departments</li> </ul>	
<ul style="list-style-type: none"> <li>• County more likely to provide infrastructure/professional support to PA (legal, human relations)</li> </ul>	
<ul style="list-style-type: none"> <li>• Opportunity for County and consumers to gain experience operating under a proven governing entity</li> </ul>	

After discussing these two governing options, it was thought that a close partnership with the County would provide support in the development of the Public Authority as a new public entity. In regards to implementation planning (the next step in the process), the Committee makes the following recommendations.

**Recommendation 7.**

The Committee recommends that implementation planning begin by February 1, 2002 and end with the submission of a rate application packet to the State by May 1st, 2002.

**Recommendation 8.**

The Committee recommends that the Public Authority begin operation on July 1, 2002.

**Recommendation 9.**

The Committee recommends that the planning team include appropriate representatives of the County's Administrator, Health and Human Services, Human Resources, Counsel, and Fiscal departments.

**Recommendation 10.**

The Committee recommends that representatives of the planning team meet with the Advisory Committee on a monthly basis.

**Recommendation 11.**

The Committee recommends that Advisory Committee members attend planning team meetings on an open invitation basis.

**Recommendation 12.**

The Committee recommends that Advisory Committee members review the draft implementation plan and make recommendations to the Board regarding its content.

Our two final recommendations have to do with amending our current bylaws. As is the case in many other counties, we are having trouble recruiting and keeping Committee members. Individuals who use IHSS support services typically have personal support needs that might keep them from attending a meeting on a regular basis. We, therefore, recommend the following changes:

**Recommendation 13.**

The Committee recommends that the current Committee bylaws be changed to reduce the number of members to nine (9) and remove age requirements.

**Recommendation 14.**

The Committee recommends that the current Committee bylaws be changed to provide a stipend to Advisory Committee members.

This might serve as an incentive in recruitment and help balance the costs of transportation and support for Committee members. Specifically, while not written into the revised bylaws, we are suggesting a stipend of \$100 per meeting with a maximum of two meetings per month. The recommended revisions to the bylaws can be found in Appendix B.

**Next Steps**

Once the Board makes its decision on this set of recommendations, implementation planning begins. The outcomes of this planning process are: (a) an application for a new rate of reimbursement for IHSS services and administration of the program that

will be submitted to the State; and (b) a draft ordinance to be submitted to the Board of Supervisors that establishes the Public Authority. The implementation plan offers a roadmap to the County in transitioning to the Public Authority as the employer-of-record. The plan should include:

- ✦ Roles and Responsibilities of Public Authority Staff
- ✦ Division of Responsibilities and Coordination Between County IHSS and Public Authority Staff
- ✦ Role, Responsibilities, Relationship of the Public Authority and Level of Coordination with Other County Entities
- ✦ Public Authority Values, Mission Statement and Duties
- ✦ Public Authority Advisory Committee Role, Mission, Duties and Membership
- ✦ Public Authority Registry Design, Operations and Policies and Procedures
- ✦ Consumer and Provider Support Services and Training
- ✦ Organizational Chart, Executive Director Reporting Structure, Staff Positions, Job Descriptions, Salaries and Benefits, Office Space
- ✦ Performance Measures, Budget and Rate, Documentation Required by the California Department of Social Services
- ✦ Draft Ordinance

After the County submits the implementation plan and rate package to the State, a written verification of the new rate will be provided. At that time, the County would hire staff, the Public Authority would begin operation and, as appropriate, some services would transition from the County to the Public Authority. Other counties have noted the importance of timing in passage of the ordinance and submission of the rate package. Once the ordinance is passed, the organization of a collective bargaining unit will likely begin. If not timed right, patch funds would need to be available from the County for increased wages and benefits in the period of transition.

## Conclusion

We appreciate the responsibility that the Board has given us. We have taken the job seriously and we have done our homework. We hope that this report and these recommendations provide a clear and concise way for you to consider the best alternatives for a mode of service and employer of record for IHSS workers and consumers in Napa County.



## Appendices



# Appendix 1

## References

Assembly Bill 1682

California Department of Social Services

Contra Costa County IHSS Advisory Committee *Public Authority Implementation Planning Team Findings and Recommendations* (March 1999)

Eldon Luce, Eldon Luce Consulting

Nevada County IHSS Advisory Committee *Modes of Service and Employer of Record Findings and Recommendations* (September 2000)

San Diego County IHSS Advisory Committee

Santa Cruz County IHSS Advisory Committee *Analysis of Modes of Service and Employer of Record*



## Appendix 2

### Napa County IHSS Advisory Committee Bylaws with Recommended Revisions

#### Article I - Name

1. **Name.** The name of the committee shall be the Napa County In-Home Supportive Services (IHSS) Advisory Committee.

#### Article II - Purpose

1. **Mission.** The mission of the IHSS Advisory Committee is to provide recommendations to the Board of Supervisors in the development of an IHSS program to best meet the needs of recipients, service providers, and the community.

2. **Purpose.** The Committee shall:

(a.) review the overall IHSS program and provide ongoing advice and recommendations to the Board of Supervisors regarding:

- (1.) preferred mode or modes of service to be used for IHSS; and
- (2.) establishment of an 'employer of record'; and

(b.) provide a method of community input for citizens who use or provide IHSS.

#### Article III - Structure and Membership

1. **Authority.** The Committee shall coordinate with other committees, commissions and other representatives appointed by the Board of Supervisors who represent or influence this subject area.

2. **Term of Appointment.** The initial term of Committee members shall be two years from the day of appointment or until a successor is appointed by the Board of Supervisors. The Board of Supervisors has the authority to dissolve the Advisory Committee or remove a Committee member at any time.

3. **Liaison Department.** The Health and Human Services Agency (HHS) shall act as the liaison department for the Committee. HHS shall provide or arrange for staffing, logistical assistance, training, budget support, and other assistance as

needed. HHSa shall also be responsible for keeping Committee members apprised of matters relating to In-Home Supportive Services. This communication shall be carried out by the distribution of Committee minutes and through periodic reports to the Committee at regularly scheduled meetings.

**4. Qualifications and Appointments.** The Committee shall consist of ~~eleven~~ ~~(11)~~ **(9)** at-large members nominated and appointed by the Board of Supervisors. Membership shall include the following representation:

- a. ~~Three (3)~~ **Five** individuals ~~that are 65 years or older~~ who are current or past users of IHSS services or personal assistance services paid for through public or private funds;
- b. ~~Three (3) individuals that are under 65 who are current or past users of IHSS services or personal assistance services paid for through public or private funds;~~
- ~~c.~~
- b. One (1) individual who is a current or former provider of IHSS services to a family member **or non-family member;**
- ~~d. One (1) individual who is a current or former provider of IHSS services to a non-family member;~~
- ~~e.~~
- c. One (1) individual who has been appointed by and is a current member of the Commission on Aging; and
- ~~f.~~
- d. Two (2) members of the community with involvement and demonstrable interest in the IHSS program.

**5. Attendance.** Any member of the Committee who fails to attend three regular meetings within one year, or who misses more than three consecutive meetings, shall have his or her membership reviewed by the Committee at a regular meeting. The Committee may make a recommendation to the County Board of Supervisors for continuation or removal of the member.

**6. Compensation.** Members of the Committee shall **be provided a stipend for attending meetings. The amount of the stipend to be established by the Board of Supervisors.** ~~serve without compensation. The Health and Human Services Agency will pay for reasonable and necessary expenses incurred for the operation of the Committee.~~

## Article IV - Meetings

**1. Schedule.** The Committee shall meet at least monthly at a stated date, time, and place. Special meetings may be called by the chair, a majority of the membership, or at the request of the director of HHSa. The Committee shall adopt rules as needed for the conduct of business, including the formation of subcommittees. Subcommittees must include at least one member of the Committee,

and may include such additional staff persons and additional interested citizens of Napa County as will enable orderly and effective functioning. Subcommittees may schedule meetings to fit the requirements of their projects, but shall report regularly at the scheduled Committee meetings.

2. **Quorum.** Attendance by roll-call of the majority of sitting members of the Committee shall constitute a quorum for the transaction of business. Proxy votes are not allowed.

3. **Rules of Order.** The meetings of the Committee shall be governed by Robert's Rules of Order, modified to allow open participation in discussions and voting by the Chair.

4. **Open Meetings.** All regularly scheduled meetings of the Committee shall be open to the public. Notice of time and place of all regularly scheduled meetings shall be published.

## Article V - Officers

1. **Elected Officers.** Each year the Committee shall elect a Chair, Vice Chair and Corresponding Secretary. Nominations shall be made at the first meeting of each calendar year and elections shall be held at the second meeting. The Chair of the Committee may not be from an administrative agency that functions as the facilitator or convener of the Committee (e.g., may not be from the Napa County Administrator's Office or the Napa County Health and Human Services Agency). The Vice Chair shall succeed the Chair.

2. **Term of Office.** Each officer shall serve one year or at the pleasure of Committee, whichever is shorter.

3. **Vacancies.** Vacancies in offices may be filled at any time by appointment of the Board of Supervisors. Mid-term appointments shall be for the remainder of the term.

4. **Duties of Chair, Vice Chair and Corresponding Secretary.** The Chair shall preside at all regular and special meetings of the Committee and shall act as the official representative of the Committee in its communication with other organizations, groups, and with the Board of Supervisors. In the absence of the Chair, the Vice Chair assumes the duties and responsibilities of the Chair. The Corresponding Secretary reads and responds to correspondence as directed by the Committee. The duties of a Recording Secretary shall be provided by support staff. The Recording Secretary records the minutes of the meeting and notifies members regarding regular and special meetings.

## Article VI - Orientation, Training, and Assessment

1. **Orientation of New Members.** All new members of the Committee shall be oriented to the structure and operations of the Committee. The Chair shall request existing members to provide orientation and mentoring to new members for three months.

2. **Training.** At least once each year, HHSA shall provide members of the Committee with education and training regarding the current status of IHSS services within Napa County as well as relevant legislative updates. As a part of that training, there shall be a review of the mission, purpose, and operating procedures of the Committee.

3. **Assessment.** An assessment of members shall be conducted by the Board of Supervisors or a representative agency at least every 18 months.

## Article VII - Amendments, Forms

1. **Amendments of the Bylaws.** These Bylaws may be amended at any time by action of the Board of Supervisors.

2. **Forms of Documents.** Documents required for the routine operation of the Committee shall be in the form determined by HHSA. This includes applications for membership, notices of meetings, agendas, minutes, and other documents. The Committee may at any time request HHSA to develop or modify such documents.