



Contra  
Costa  
County

To: Board of Supervisors

From: LEGISLATION COMMITTEE

Date: June 9, 2015

Subject: AB 1436 (Burke) In-Home Support Services: Authorized Representatives

**RECOMMENDATION(S):**

ADOPT a "Support" position on AB 1436 (Burke), as amended: In-Home Support Services: Authorized Representatives, a bill that would authorize an applicant for, or recipient of, in-home supportive services to designate an individual to act as his or her authorized representative for purposes of the In-Home Supportive Services program, as recommended by the Legislation Committee.

**FISCAL IMPACT:**

No fiscal impact.

**BACKGROUND:**

At its May 7, 2015 meeting, the Legislation Committee considered and accepted the recommendation from the Assistant Director of Policy and Planning for Employment and Human Services Department to recommend a position of "Support" to the Board of Supervisors on AB 1436.

Introduced: 02/27/2015

Last Amend: 05/06/2015

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **06/09/2015** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

**VOTE OF SUPERVISORS**

AYE: John Gioia, District I  
Supervisor  
Candace Andersen, District II  
Supervisor  
Mary N. Piepho, District III  
Supervisor  
Karen Mitchoff, District IV  
Supervisor

ABSENT: Federal D. Glover, District V  
Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: June 9, 2015

David Twa, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: L. DeLaney,  
925-335-1097

cc:

Disposition: Pending

Location: Assembly Consent Calendar--Second Legislative Day

Summary: Authorizes an applicant for, or recipient of, in-home supportive services to designate an individual to act as his or her authorized representative for purposes of the In-Home Supportive Services program. Defines an authorized representative. Provides the representative has a legal responsibility to act in the client's best interest. Excludes certain persons from serving as an authorized representative. Requires the development of a form for this purposes.

Status:

## BACKGROUND: (CONT'D)

05/21/2015

In ASSEMBLY. Read second time. To Consent Calendar.

Specifically, this bill:

- 1) Defines "authorized representative" to mean an individual who is appointed by an In-Home Supportive Services (IHSS) applicant or recipient in order to represent that applicant or recipient for purposes related to the IHSS program, as specified.
- 2) Allows an IHSS applicant or recipient to designate an authorized representative.
- 3) Specifies that an IHSS applicant or recipient shall determine the duties to be provided by the authorized representative and that these duties may be changed or revoked at any time by the applicant or recipient.
- 4) Requires the authorized representative to have a legal responsibility to act in the client's best interest.
- 5) States that legal documentation of authority to act on behalf of the applicant or recipient under state law, including but not limited to a court order establishing legal guardianship or a valid power of attorney to make health care decisions, shall serve in place of an IHSS applicant's or recipient's written appointment of an authorized representative.
- 6) Permits the authorized representative, if so instructed by the IHSS recipient, to sign timesheets for services rendered on behalf of the recipient, but disallows the authorized representative who is a care provider from signing his or her own timesheet unless the provider has legal custody over a minor recipient, as specified, or the provider is legally authorized to act on the applicant's or recipient's behalf per state law.
- 7) Specifies that an individual with legal authority to act on behalf of an IHSS applicant or recipient may designate someone other than him or herself to act on behalf of the applicant or recipient.
- 8) Prohibits anyone prevented from being an IHSS provider due to past criminal convictions, as well as individuals granted certain exemptions to serve as a provider despite past criminal convictions, as specified, from serving as an authorized representative.
- 9) Prohibits anyone found to have perpetuated a substantiated report of abuse or neglect against a child, elder, or dependent adult from serving as an authorized representative.
- 10) Directs the Department of Social Services, in consultation with stakeholders, as specified, to develop a standardized statewide form, as specified, and procedures related to the designation of an authorized representative.

## EXISTING LAW:

- 1) Establishes the IHSS program to provide supportive services, including domestic, protective supervision, personal care, and paramedical services as specified, to individuals who are aged, blind, or living with disabilities, and who are unable to perform the services themselves or remain safely in their homes without receiving these services. (WIC 12300 et seq.)
- 2) Specifies requirements regarding IHSS provider timesheets, including that both provider and recipient must sign the timesheet to verify the accuracy of information. (WIC 12301.25)
- 3) States that counties may choose to contract with a nonprofit consortium or establish a public authority for the provision of IHSS services. Requires nonprofit consortia and public authorities to, among other things, establish a registry to assist recipients in locating IHSS providers, and to investigate the background and qualifications of potential providers, as specified. (WIC 12301.6)
- 4) Maintains an IHSS recipient's right to hire, fire, and supervise the work of any IHSS provider, regardless of the employer responsibilities of a public authority or nonprofit consortium, as specified. (WIC 12301.6 and 12302.25)
- 5) Requires counties to perform a background check on individuals applying to become IHSS providers, and stipulates

circumstances under which individuals shall be excluded from becoming an IHSS provider, as well as circumstances under which such an exclusion might be waived, as specified. (WIC 12305.86 and 12305.87)

## COMMENTS:

1) Purpose. According to the author, the authorized representative function is critical in that it provides applicants and recipients with a self-directed pathway to receive needed assistance with complex rules and requirements of these programs. IHSS program applicants and recipients may struggle with increasingly complex and changing program rules; yet, while they may have family members and friends who are able to provide support, there is no formal process to designate these individuals as authorized representatives.

This bill, according to the author, provides flexibility for an IHSS applicant or recipient to determine the duties of the authorized representative, and makes it clear that the authorized representative has a legal responsibility to act in the client's best interest.

2) Background. A number of programs administered by the state allow for, and set forth definitions and designation procedures regarding, authorized representatives in order to facilitate recipients' full participation in programs. These authorized representatives are permitted, within specified limits, to act on behalf of program applicants and participants typically for purposes of applying for services and other required program activities.

## REGISTERED SUPPORT / OPPOSITION:

### Support

County Welfare Directors Association of CA (CWDA) -sponsor  
California Association of Public Authorities (CAPA) - co-sponsor  
American Federation of State, County and Municipal Employees (AFSCME)  
California State Association of Counties (CSAC)  
Ventura County Board of Supervisors  
UDW/AFSCME Local 3930

### Opposition

None on file. CONSEQUENCE OF NEGATIVE ACTION: Contra Costa County would not have a position on the bill.  
ATTACHMENTS Attachment A - Bill Text Attachment B - Fact Sheet