RECOMMENDED ACTION AND JUSTIFICATION:

It is respectfully recommended that, to comply with AB 1682, your Board: (1) accept the primary recommendation of your In Home Supportive Services Advisory Committee to establish a Public Authority that will act as the employer of record for IHSS providers; (2) serve as the Board of Directors of the Public Authority; (3) direct Counsel to draft an ordinance regarding this matter; (4) authorize the County to continue to act as employer of record until the Public Authority is fully operational; (5) reconvene your IHSS Advisory Board to assist with the activation of the Public Authority; (6) modify the Advisory Committee by laws to reflect a membership of up to seven people; (7) consider allowing the department to provide stipends to the Advisory Committee members due to the frequency of their meetings; and (8) most importantly, adopt a Resolution by March 31, 2003, declaring your intent to form a Public Authority and to act as employer of record until that Public Authority is operational.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

Please See Attached.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Please See Attached.
COUNTY of MARIPOSA
P.O. Box 784, Mariposa, CA 95338 (209) 966-3222
BOB PICKARD, CHAIR DISTRICT V
GARRY R. PARKER, VICE-CHAIR DISTRICT IV
LEE STETSON DISTRICT I
DOUG BALMAIN DISTRICT II
JANET BIBBY DISTRICT III

MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: CHERYLE RUTHERFORD-KELLY, Human Services Director
FROM: MARGIE WILLIAMS, Clerk of the Board
SUBJECT: IN-HOME SUPPORTIVE SERVICES
Res. No. 03-63

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on February 25, 2003

ACTION AND VOTE:

2:08 p.m. Cheryle Rutherford-Kelly, Human Services Director;
   A) The In-Home Supportive Services (IHSS) Advisory Committee’s Recommendations for Employer-
      of-Record; and
   B) Recommendation that, to Comply with AB 1682, the Board: 1) Accept the Primary
      Recommendation of the IHSS Advisory Committee to Establish a Public Authority that will Act as the
      Employer of Record for IHSS Providers; 2) The Board of Supervisors Serve as the Board of Directors of
      the Public Authority; 3) Direct County Counsel to Draft an Ordinance Regarding this Matter; 4) Authorize
      the County to Continue to Act as Employer of Record until the Public Authority is Fully Operational; 5)
      Reconstitute the IHSS Advisory Board to Assist with the Activation of the Public Authority; 6) Modify the
      Advisory Committee By Laws to Reflect a Membership of Up to Seven People; 7) Consider Allowing the
      Department to Provide Stipends to the Advisory Committee Members Due to the Frequency of their
      Meetings; and 8) Most Importantly, Adopt a Resolution by March 31, 2003, Declaring the Board’s Intent to
      Form a Public Authority and to Act as Employer of Record Until that Public Authority is Operational

   BOARD ACTION: Cheryle Rutherford-Kelly introduced Barry Smith, Chair of the Advisory Committee.
   Barry thanked the Committee members and Human Services staff for their efforts in this matter, and he
   reviewed the Committee’s report.

   Cheryle Rutherford-Kelly reviewed the staff report and options for this program. Jeff Green, Counsel,
   noted that a proposed ordinance will need to be brought back, and he advised that it will contain options of
   how to administer the Public Authority, and it will include input from the County Administrative Officer
   and a fiscal analysis. Discussion was held relative to training requirements and liability issues,
   recommendations for the number of members on the Advisory Committee, whether there would be any
   changes to the payroll processing, and whether there would be financial impacts.
(M)Stetson, (S)Balmain, Res. 03-63 was adopted approving the Human Services Director’s recommendations. Further discussion was held and clarification given. Les Wenger, Advisory Committee member, provided input relative to the request for a stipend for the members. The motion was amended, agreeable with the maker and second, to set the stipend for members to attend meetings at $35.00 per member per meeting; directing that the role of Human Services for staffing the Authority be clarified in the ordinance and that options be included; and clarifying that the Advisory Committee reflect a membership of up to seven people/Ayes: Stetson, Balmain, Bibby, Pickard; Abstained: Parker.

cc: Ken Hawkins, Auditor  
Rich Inman, County Administrative Officer  
Jeff Green, County Counsel  
File
February 5, 2003

TO: Members, Board of Supervisors
FROM: Cheryle Rutherford-Kelly
RE: IHSS Employer of Record

**Recommendation**

It is respectfully recommended that, to comply with AB 1682, your Board: (1) accept the primary recommendation of your In Home Supportive Services Advisory Committee to establish a Public Authority that will act as the employer of record for IHSS providers; (2) serve as the Board of Directors of the Public Authority; (3) direct Counsel to draft an ordinance regarding this matter; (4) authorize the County to continue to act as employer of record until the Public Authority is fully operational; (5) reconvene your IHSS Advisory Board to assist with the activation of the Public Authority; (6) modify the Advisory Committee by laws to reflect a membership of up to seven people; (7) consider allowing the department to provide stipends to the Advisory Committee members due to the frequency of their meetings; and (8) most importantly, adopt a Resolution by March 31, 2003, declaring your intent to form a Public Authority and to act as employer of record until that Public Authority is operational.

**Background**

The In Home Supportive Services (IHSS) program provides assistance to eligible aged (over 65), blind and disabled adults who are unable to remain safely in their own homes without assistance. This is an alternative to long term care living situations. Services can include personal care (such as bowel and bladder care, bathing, grooming and paramedical services), housekeeping, shopping, transportation to medical appointments and protective supervision for the mentally impaired. Assistance for individuals needing care is delivered by “providers” who are hired by the client to assist them. The program is paid for by state, federal and local funds. The current program is operated by Human Services, in terms of determining eligibility for the program based on medical and financial need. However, the client hires the person, the provider, who is to perform approved services for them. The budget is managed by this department but the payroll agent (the one who sends the checks to the providers) operates out of Rancho Cordova.

AB 1682, a seriously under funded state mandate, was passed in 1999. The law requires that each county, on or before January 1, 2003, act as an employer of record or establish an employer of record for In-Home Supportive Services providers for specific legal purposes. In the final analysis, the purpose of the legislation was not to improve services or accountability, but to develop a system under which the providers could be represented for the purpose of bargaining for wages and benefits. Two unions split the State (counties) in half in an attempt to represent providers who they did not currently represent and Mariposa falls under SEIU.
Employer of record options include:

- The county;
- A public authority or non profit consortium;
- An IHSS contractor;
- A combination of the above options

The bill required that each county form an IHSS Advisory Committee whose responsibility is to address the issue of establishing an employer of record by the year 2003. Your Board appointed such a committee.

**Current Situation**

The Advisory Committee appointed by your Board has worked diligently and responsibly to find an employer of record option that takes into account client need, legal requirements and operational cost. They are recommending that you form a public authority to act as employer of record. The department, reluctant to recommend any program that is not fully funded, concurs because failure to implement will place the county in a position of violating state law. Two other counties, Contra Costa and Madera, have been most helpful in forwarding their resolutions and information to this County.

**The Public Authority**

If your Board elects to form a public authority, Human Services would still be involved with this program in that (1) a social worker would determine whether an individual was eligible to receive services based on income and need; (2) there would still be a statewide payroll agent, sending checks to providers based on information and work hours forwarded to them by the Public Authority; and (3) state and federal money would still flow through the County. The Public Authority would be responsible for advising providers of training opportunities, for keeping a list of providers current and for the purpose of collective bargaining. Your Board should strongly consider acting as the Board of Directors of the Public Authority so that you would have oversight of bargaining and program cost containment. To turn the expenditure of federal, state and local money over to an independent board is not recommended.

The advantage of a Public Authority acting as Employer of Record is that, by ordinance, you could consider limiting the liability of the entity to what that entity has on hand. This is possible under state regulation (12301.6F) depending on a particular county’s ordinance.

Other options, such as having Human Services hire providers or contracting out, are very expensive. Historically, these methods have already been tried in California. It also takes control over hiring from the client. This County really does not have large community based organizations able to take over the role of the Public Authority. Nor has any local organization expressed interest in becoming Employer of Record.

**Staffing the Public Authority**

The Committee, with excellent intentions and concern for the clients, hopes that establishing a Public Authority will improve services to clients through training of
providers, more frequent contact with the clients and retention of providers due to increased wages. The law, sadly, was not about improving services; it was strictly about increasing the wages of the providers through collective bargaining. That is why there is not a requirement to fingerprint providers or require training. Nevertheless, your Board, sitting as the Public Authority Board, could ensure that the Public Authority employee(s) work in cooperation with the Human Services Social Worker who sees the clients to establish need and determine eligibility as well as with Adult Protective Services.

Your Advisory Committee has recommended that planning continue for the Public Authority and that indeed needs to occur. The Committee could assist to determine the level of staff needed. There are options; for example, a contract administrator with excellent interpersonal skill, or a social worker with administrative expertise, would be able to work positively with people, mediate disputes between the client and the provider, and understand the role of the Public Authority. The person would have to develop the mission and duties, write policies, establish the registry of providers required by law, budget, post provider training opportunities, work with the providers and other entities such as Human Services. A payroll clerk may also be necessary. After the first year of operation, there will be a need to reassess the staffing pattern.

The Mandate Issue

In spite of Advisory Committee efforts, costs will increase. The State’s position in relation to AB 1682 is that the counties have realignment money to pay for an increased share of cost. That is unacceptable as realignment pays for many services; that money belongs under the purview and control of your Board; and this County is already spending more realignment money on IHSS than any other social service program. Your Board actually was responsible for assisting professional organizations to understand the serious impact of IHSS through your work with RCRC and the San Joaquin County Supervisors Association. Resultantly, CSAC (like County Welfare Director’s Association) is cognizant of the magnitude of the financial problems associated with AB 1682 statewide. AB 1682 is an under funded mandate that needs to be funded through the State Department of Social Services so that the state is not in violation of a prior law that requires full funding for all new and modified programs.

Financial

A historical chart of costs, as well as a very rough estimate for the Public Authority, is attached for your review. Without knowing the staffing pattern, the hourly wage or the revenue allocations, the department cannot provide more than a very preliminary estimate of revenue and expenditures.
## IHSS CASES AND COSTS - 1994/95 THROUGH 2004/05

<table>
<thead>
<tr>
<th>FY</th>
<th>Authorized Cases per Month</th>
<th>Avg. Cases per Month</th>
<th>% of Change</th>
<th>Annual County Cost</th>
<th>Amount of Change</th>
<th>% of Change</th>
<th>Total Cost of Change</th>
<th>Amount of Change</th>
<th>% of Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>1994/95</td>
<td>1,232</td>
<td>103</td>
<td>-0.97%</td>
<td>$172,814</td>
<td>($3,232)</td>
<td>-4.76%</td>
<td>$645,875</td>
<td>($13,970)</td>
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<tr>
<td>1995/96</td>
<td>1,220</td>
<td>102</td>
<td>2.05%</td>
<td>$166,892</td>
<td>$2,310</td>
<td>1.40%</td>
<td>$631,905</td>
<td>$39,090</td>
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<tr>
<td>1996/97</td>
<td>1,363</td>
<td>114</td>
<td>9.48%</td>
<td>$223,743</td>
<td>$56,851</td>
<td>34.06%</td>
<td>$853,174</td>
<td>$182,179</td>
<td>27.15%</td>
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<tr>
<td>1997/98</td>
<td>1,583</td>
<td>132</td>
<td>16.14%</td>
<td>$292,231</td>
<td>$58,488</td>
<td>30.61%</td>
<td>$963,403</td>
<td>$110,229</td>
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<td>1999/00</td>
<td>1,782</td>
<td>149</td>
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<td>$268,489</td>
<td>($23,742)</td>
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<td>2000/01</td>
<td>1,900</td>
<td>158</td>
<td>6.62%</td>
<td>$268,200</td>
<td>($326)</td>
<td>-0.11%</td>
<td>$1,192,147</td>
<td>$118,219</td>
<td>11.01%</td>
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<tr>
<td>2001/02</td>
<td>2,038</td>
<td>170</td>
<td>7.26%</td>
<td>$327,687</td>
<td>$59,487</td>
<td>22.18%</td>
<td>$1,404,330</td>
<td>$212,183</td>
<td>17.80%</td>
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<tr>
<td>2002/03 (estimate)</td>
<td>2,193</td>
<td>183</td>
<td>7.59%</td>
<td>$359,457</td>
<td>$31,770</td>
<td>9.70%</td>
<td>$1,573,552</td>
<td>$169,222</td>
<td>12.05%</td>
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**FY 2003/04 (estimate)**
- July-Oct 2003 County
- Oct 2003-June 2004 PA
- Total fy 2003/04

<table>
<thead>
<tr>
<th>FY 2004/05 (estimate)</th>
<th>Amount of Change</th>
<th>% of Change</th>
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<tbody>
<tr>
<td>FY 2004/05 (estimate)</td>
<td>$476,423</td>
<td>42.60%</td>
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</table>

**PUBLIC AUTHORITY**

<table>
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<tr>
<th>FY 2004/05 (estimate)</th>
<th>Amount of Change</th>
<th>% of Change</th>
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</thead>
<tbody>
<tr>
<td>FY 2004/05 (estimate)</td>
<td>$2,746,530</td>
<td>22.40%</td>
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**NOTE:** Public Authority costs assume the PA is operational on October 1, 2003 and that provider payroll costs have increased.
The assumed PA rate used for 2003/04 and 2004/05 is the state-wide average of PA's in full operation prior to 2002. This rate is not reflective of any actual costs anticipated to be incurred in Mariposa County. Mariposa's rate will be developed at a later date, and is dependent on staffing, space and overhead costs of the PA, as well as the approved provider wage and benefit levels. The final rate is also subject to State approval.

The percent of change projected for fiscal year 2004/05 represents caseload growth and Social Services administration costs only.

County and Total Costs include Social Services' administrative expenses, which cover social worker costs and overhead, as well as the Advisory Committee expenses. These costs will continue to be incurred under the Public Authority, as Social Services retains the responsibility to determine eligibility for service.

An additional $130,000 allocation is available in fiscal year 2002/03 for start-up costs incurred to establish the Public Authority. The county share of these start-up costs is approximately $25,662. It is unknown if this allocation will be available beyond June 30, 2003.
DEPARTMENT: Human Services
BY: Cheryle Rutherford-Kelly
PHONE: 966-2442

RECOMMENDED ACTION AND JUSTIFICATION:

The In Home Supportive Services (IHSS) Advisory Committee respectfully requests to submit their recommendations for Employer-Of-Record.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

September 3, 2002, the Board of Supervisors; (1) Unanimously appointed The IHSS Advisory Committee; (2) authorized the Human Services Director to staff the committee in terms of providing caseload and financial information and responding to questions; and (3) Stipulated two members of the Board of Supervisors continue to review program development.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Financial Impact? ( ) Yes [X] No  Current FY Cost: $
Budgeted In Current FY? ( ) Yes ( ) No ( ) Partially Funded
Amount in Budget: $
Additional Funding Needed: $
Source:
Internal Transfer
Unanticipated Revenue
Transfer Between Funds
Contingency
( ) General  ( ) Other

Annual Recurring Cost: $

List Attachments, number pages consecutively
Employer-Of-Record Recommendations, Pages 1-12

CLERK'S USE ONLY:
Res. No.: _____  Ord. No. _____
Vote – Ayes: _____  Noes: _____
Absent: _____
( ) Approved
( ) Minute Order Attached  ( ) No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.

Date: ________________
Attest: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California
By: ______________________
Deputy

COUNTY ADMINISTRATIVE OFFICER:
( ) Requested Action Recommended
( ) No Opinion
Comments:

CAO: ________________

Revised Dec. 2002
IHSS Advisory Committee

EMPLOYER-OF-RECORD RECOMMENDATIONS

Prepared for the Mariposa County Board of Supervisors

January 2003
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EXECUTIVE SUMMARY:

In Mariposa County over 165 seniors and disabled individuals, who wish to stay in their own homes, receive care through California’s In-Home Supportive Services (IHSS). IHSS recipients are both low-income and at-risk of being institutionalized. A physician must find an applicant to be permanently disabled (or expected to be disabled for at least one year), aged, or blind and at risk of being institutionalized; and Social Service workers must establish income eligibility. Program costs are paid for by federal, state, and county funds. Mariposa County annually pays roughly 21% or $394,000 of all IHSS service delivery and administration costs.

IHSS is not a nursing care program. Providers assist with basic domestic and personal activities such as housecleaning, cooking, dressing, personal care, shopping, feeding, bathing, transportation and physical therapy or paramedic services (under the supervision of a physician). IHSS providers can be either employees unrelated to recipients or qualifying family members. Currently, the IHSS recipient is the official employer-of-record, but providers submit timesheets to county staff, who review and enter the data into a state payroll system. The state system issues payroll checks and manages taxes and basic insurance such as SDI.

IHSS providers currently receive minimum wage and limited benefits. Formal training is not provided or required, and little or no assistance is available if problems arise. Currently, providers have no professional networking opportunities. Working conditions lead to high turnover and make it extremely difficult for recipients to keep quality care providers. In addition, there is a lack of accountability in the current hiring process. Social workers provide a registry of providers, but cannot make specific hiring recommendations. Each recipient is the employer-of-record, and hires a provider without state or county standards that require background checks, work references or basic qualifications. Recipients are often inexperienced with hiring procedures and may be hesitant or fearful to ask for more information when care is hard to find.

Assembly Bill 1682 requires action in regards to these problems by January 1, 2003. This law requires all counties to identify an employer-of-record for IHSS providers. This will allow IHSS workers the right to organize in a bargaining unit and negotiate for wages and benefits. The intent is to create a more stable and qualified workforce. AB 1682 requires that an Advisory Committee made up of providers and recipients recommend an employer-of-record and a mode of IHSS service delivery. A formal recommendation must be presented to the local Board of Supervisor’s for consideration and action.

The Mariposa County IHSS Advisory Committee is made up of dedicated providers and recipients. Strong participation has resulted in the well-studied and thoughtful recommendation that the County establish a Public Authority. This will provide the greatest long-term benefits to providers, recipients, and society, while remaining low-
cost relative to the alternatives. A Public Authority may offer provider health benefits, higher wage increase, additional training, and accountability measures that will ensure quality and safety for Mariposa County residents. The Public Authority may offer the recipient qualified providers and stability of services.

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

*Mariposa County IHSS Advisory Committee*
BACKGROUND INFORMATION:

COMMITTEE PARTICIPANTS

Committee members were appointed by the Mariposa County Board of Supervisors on September 3, 2002 and included the following:

Jim Archer
Patricia Bell
Linda Lefforge
Dante Skatell
Les Wenger

Suzan Banchero
Janice Haag
Pamela Reason
Barry Smith

Current Committee Members include:

<table>
<thead>
<tr>
<th>MEMBERS/PARTICIPANTS</th>
<th>ROLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Barry Smith</td>
<td>Past Recipient/IHSS Chairperson</td>
</tr>
<tr>
<td>Suzan Banchero</td>
<td>Recipient Advocate/IHSS Vice Chairperson</td>
</tr>
<tr>
<td>Les Wenger</td>
<td>Provider</td>
</tr>
<tr>
<td>Dante Skatell</td>
<td>Recipient</td>
</tr>
<tr>
<td>Janice Haag</td>
<td>Recipient Advocate</td>
</tr>
<tr>
<td>Linda Lefforge</td>
<td>Provider</td>
</tr>
</tbody>
</table>

Participating members come from Mariposa and Sonora.

The Committee’s deliberation process was preceded by an orientation and overview of the IHSS program presented by County Supervisor, Bob Pickard, County Counsel, Jeff Green and Mariposa County Department of Human Services Director, Cheryle Rutherford-Kelly. Committee members were presented with orientation materials along with a complete copy of AB 1682 for review.

During a subsequent Committee meeting, a state representative, Dawn Devore, presented a comprehensive analysis of the allowable modes of IHSS service delivery and the required employer of record option related to each mode. The analysis explored considerations from the perspective of recipients and providers as well as cost factors. Advantages and disadvantages of each service delivery mode were weighed.

The Committee drew comparisons amongst the allowable options for service delivery, considered them relative to the needs and concerns of the local community, and finally rated them according to criteria discussed earlier in the process. The recommendations resulting from these deliberations are contained within this report.

Each and every meeting held was open to the public and all comments welcomed. Meetings were noticed in advance in compliance with all applicable laws and by-laws so that all community members, including recipients and providers, and agencies could attend, if desired.
IHSS History:

In the 1950's California established the Attendant Care program to provide an additional grant to Old Age Assistance recipients to enable elderly and disabled persons to remain in their own homes. During the early 1970's, the state reduced the budgeted expenditures for the Attendance Care program from $24.5 million to $14.5 million. Funds were split between the Attendant Care program and the Homemaker program. Under the Attendant Care program, clients who were able to obtain their own providers were given cash grants to do so, while those who were not, received Homemaker Services. Homemakers usually provided more personal care.

In 1974, amendments to the Social Security Act replaced the public assistance programs with the federally administered Supplemental Security Income-State Supplemental Payment Programs. These programs provided cash grant living allowances to aged, blind, and disabled recipients, but didn't provide supplemental payments for attendant care services. The California In-Home Supportive Services (IHSS) program began during this period.

In 1979, Assembly Bill 3028 declared the client to be the employer-of-record. During the 1980's, Senate Bill 633 impacted IHSS in three ways: 1) It placed a cap on federal and state share of IHSS expenditures after FY 1980/91; 2) It required that counties submit plans that indicate how they would deliver IHSS services; and 3) It required that counties implement prioritized program reductions if allocations didn't meet service needs. The state Attorney General's Office made a ruling that, depending on the purpose, the state, county, or recipient might be considered the employer.

In 1987 Senate Bill 412 eliminated the prioritized reductions of SB 633 and capped the county cost for IHSS at the county cost in FY 87/88. During the 1990's, Counties were allowed the option to contract for IHSS or to establish a public authority to deliver in-home services. The contractor or the public authority was required to act as the employer and bargain over wages, hours, and other conditions of employment.

In 1999 Assembly Bill 1682 required counties to establish an employer-of-record either by acting as the employer of IHSS providers or by contracting with an entity to act as the employer-of-record. The counties have until January of 2003 to comply with this law. In 2000 Senate Bill 288 defined the composition of the Advisory Committee, requiring counties with less than 500 IHSS recipients to include one current or former IHSS provider, and individuals representing advocates for the disabled, senior citizens, and home care providers.

Note: The information regarding the history was obtained from the California Welfare Director's Association, Adult Services Committee, September 2002.

About AB 1682

High turnover, low wages and limited benefits have made it difficult for many IHSS eligible recipients to hire and keep quality workers. In response to this crisis, the State
legislature enacted into law Assembly Bill 1682 (Chapter 90, Statutes of 1999) which requires all counties to:

- Act as or establish an employer-of-record for IHSS providers no later than January 1, 2003
- Choose the mode(s) of services for IHSS employment
- Appoint an IHSS Advisory Committee comprised of no more than 11 individuals
- Appoint as no less than 50 percent of the Advisory Committee membership, individuals who are current or past recipients of personal assistance services paid for through public or private funds
- Request input from the Advisory Committee on the designation of an employer-of-record and the design of an IHSS program that best meets the needs of IHSS service recipients, IHSS service providers, and the community.

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 it self, the law allows certain alternatives, which it refers to as “modes of service.” These mode(s) include creating a public authority, developing a contract for services, contracting with a consortium of non-profit agencies, or using County home workers. For a public authority mode, the governing board may be the same as or different than the composition of the county board of supervisors.

One of the purposes of AB 1682 is to allow IHSS service providers to engage in collective bargaining. Mariposa County’s current program pays IHSS providers minimum wage. The new law may enable service providers the opportunity to negotiate higher wages. 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 wage increases, the county will be reimbursed to the extent that the increases don’t exceed the amount of savings resulting from federal participation in certain types of cases. The fiscal impact of this provision was studied as a part of this recommendation process. ¹

**COMMITTEE CHARGE**

Assembly Bill 1682 was approved by Governor Davis on July 12, 1999. This bill requires each California County to act as or establish an Employer for In-Home Supportive Services (IHSS) by January 1, 2003 for collective bargaining purposes. In order to establish an employer-of-record, each county must form an IHSS Advisory Committee charged with recommending a mode of service and employer-of-record for IHSS. To do this, our Committee members have had to become familiar with a number of factors in order to make a well-informed recommendation to the Mariposa County Board of Supervisors. Some of these factors include: the purpose and history of IHSS; Assembly Bill 1682; current challenges to IHSS delivery; financial implications of employer-of-record options; potential liability concerns; and quality care issues.

¹ Parts of this AB1682 summary have been obtained from the Napa County In-Home Supportive Services Advisory Committee Recommendations Report.
EMPLOYER-OF-RECORD OPTIONS

1. **County Acts as Employer-of-Record (Individual Provider Mode)**  
   Mariposa County directly serves as the employer-of-record or uses a bargaining agent to represent the county. IHSS service providers cannot be Mariposa County staff. The state retains IHSS provider payroll responsibilities. Liability under this option is not addressed directly in AB1682, although under the law; the County would be the employer-of-record only for purposes of employer/employee relations.

2. **Non-Profit Consortium Acts as Employer-of-Record (Individual Provider Mode)**  
   Two or more Mariposa County non-profits (as defined by federal standards) collaborate in order to act as the IHSS “employer-of-record.” The Non-Profit Consortium IHSS employer-of-record has to apply through a formal bidding process overseen by the county. The state retains IHSS provider payroll responsibilities.

3. **Contractor Acts as Employer-of-record (Contract Mode)**  
   The county contracts with a city and/or county, a local health district, a voluntary nonprofit agency, a proprietary agency, or an individual. IHSS contracts must be procured using a competitive process, and can have terms up to three years. The IHSS contractor handles provider employer/employee relations and payroll responsibilities. The IHSS contract can include provisions holding the contractor accountable for specific liabilities arising as the result of contract noncompliance by the actions of the contractor's IHSS service providers.

4. **Public Authority Acts as Employer-of-Record (Individual Provider Mode)**  
   A Public Authority (PA) is established by local ordinance by the Board of Supervisors (BOS). A PA is a legal entity separate from the county. Under a PA the IHSS individual provider mode is maintained and the state continues to manage payroll. The PA governing body may be either the BOS; or a separate governing board established by the BOS. If the PA governing body is the BOS, the board must use an Advisory Committee with a make-up like that of the current committee. The PA must contract with the county; by law this contract is not subject to competitive bidding requirements. Employees of the public authority cannot be employees of the county for any purpose.

5. **County Employs IHSS Providers Directly (Homemaker Mode)**  
   The County hires homemakers and other in-home supportive service personnel in accordance with established county civil service requirements. Counties without civil service can use merit system requirements. As the employer, the County handles all service provider employer/employee relations and payroll responsibilities.

DECISION-MAKING PROCESS

Early Elimination:
The **Homemaker** option was ruled out during initial Committee discussions due to a number of factors. The costs of providing and administering services would be extremely high. Dozens of new employees would have to be hired in compliance with current Mariposa County classification systems, benefits, and regulations. Liability would be a major concern since all hiring, training, and evaluation would be the responsibility of the County. In addition, homemakers could not be relatives of recipients.

The **Non-profit Consortium** option was eliminated based on Mariposa County’s limited number of non-profits, and Liability would be a major concern.

The **Contract** option was eliminated based on high costs and limited local contractors. State averages also show that the contract mode of delivery results in far higher administrative costs than other options.

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**Final Deliberations:**

The **County Employer of Record acting as the Employer of Record** option was considered in-depth based on its reasonable costs and ease of implementation. This option would require virtually no change in structure or management. It would not, however, offer benefits to providers or ensure training opportunities. It could also result in higher liability for the County, since providers would be employed through a county-managed registry.

The **Public Authority** option was chosen by the Committee, as the best mode for providers and recipients in Mariposa County. This option provides higher state matches for both wages and benefits, ensures access to provider and recipient training and provider criminal background investigations; provides advocacy for the provider and recipient; no bid process is required, and all staff time will be dedicated to the delivery and administration of IHSS services. It may also lessen County liability concerns.

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**ADVISORY COMMITTEE RECOMMENDATIONS:**

**EMPLOYER-OF-RECORD RECOMMENDATION:**

The Mariposa County IHSS Advisory Committee recommends to the Board of Supervisors that a Public Authority be established in Mariposa County as the employer-of-record for IHSS.

This recommendation is put forward with the understanding that the implementation of a Public Authority is unlikely to be completed by January 1, 2003. Since an employer-of-
record must be established by this date for collective bargaining purposes, the Advisory Committee recommends that the County serve as employer-of-record until a Public Authority can be established. The Advisory Committee expects that a Public Authority would be operational by October 1, 2003. Certain members of the current Advisory Committee have expressed interest in serving on a Public Authority Implementation Committee.

**RATIONALE:**

The Advisory Committee believes that the establishment of a Public Authority may benefit IHSS recipients, providers, and all Mariposa County residents. Key reasons for selecting a Public Authority include:

- **A higher state match is available for wages and benefits**—this is likely to increase the quality and consistency of care;

- **Increased training requirements will help ensure quality care**—this will reduce cases of abuse and neglect;

- **Background checks will help to ensure recipient safety**—this will reduce cases of abuse and neglect and reduce liability concerns;

- **Full-time Public Authority staff will be dedicated to the IHSS program**—this means that site visits will be more frequent, and possible instances of abuse or neglect can be detected more quickly;

- **More living wage jobs will exist in Mariposa County**—improved wages and benefits for providers will result in more Mariposa County residents working and spending money within the county;

- **The pool of qualified providers will increase**—more trustworthy and consistent care will allow more seniors and disabled individuals to stay at home instead of being placed in institutions at high cost to tax payers.

- **Offer training for all IHSS**— IHSS providers need training that addresses basic safety and first aid techniques, job functions, communication strategies, timecard processes, immunization options, and background checks. Provider participation cannot be mandated, but should be strongly encouraged. Training costs should be paid by IHSS or partnering organizations, with participating providers receiving stipends. Training should be offered at least twice annually, with educational materials available to all new providers. On-call technical assistance for providers could also be available.

**RATIONALE:**

- Provider training will decrease potential for abuse and neglect of recipients, and decrease legal and health-related costs. Clearly defined expectations will reduce the need for intervention by social service personnel. Providers will have a chance to network with other homecare professionals and to build professional resumes. Required background checks will also result in improved safety for recipients.
Providers who receive reasonable pay and benefits will also be more likely to remain on the job: resulting in improved long-term care and decreased administrative costs.

- **Increase recipient training** - IHSS recipient training sessions should outline recipient rights and responsibilities, and offer recommendations regarding hiring and evaluation of providers. The Public Authority cannot mandate extensive background checks, training requirements, or references, but recipients can learn to require this information themselves. On-call emergency provider registries may be provided and assistance to help settle recipient-provider conflicts could also be available.

**RATIONALE:**
Recipient training will help to ensure that hiring includes background and reference checks. This will decrease the likelihood of abuse, neglect, and fraud. Recipients who understand their rights will also be less likely to need intervention from Social Service personnel. With on-call assistance, serious concerns may also be reported more promptly, heading off the need for legal action.

- **Conduct more on-site accountability** - More frequent site checks will ensure good working conditions for providers and quality care for recipients. Currently, Social Service employees conduct site visits on an annual basis. This is insufficient to ensure that ongoing care is provided as specified in employment contracts. Public Authority staff should work closely with Social Services employees to arrange more frequent follow-up visits when necessary.

**RATIONALE:**
More frequent site checks will decrease unreported abuse and neglect. They will help to ensure that tasks are completed and that working environments are safe. Unreported abuse often leads to recipient institutionalization, which is far more costly than IHSS. In addition, recipients living at home continue to contribute economically by paying rent, buying goods, and accessing other local services.

These factors make it difficult to predict the increases in County IHSS spending over time, but it is safe to say that costs will escalate each year as demonstrated by other counties who have chosen the Public Authority as the employer of record. Many counties will be forced to address this fiscal challenge. Over the next few years, Mariposa County may chose to partner with other rural counties in documenting challenges and seeking additional resources.

**FISCAL IMPLICATIONS:**
According to Social Services staff the current county cost of provider wages as the IHSS program in County IP mode is approximately $394,000. In 2003/04 the county cost for using a Public Authority as employer-of-record would be higher due to staff wages and benefits, the addition of training sessions and improved registry management. Future cost increases will be determined largely by the outcomes of wage negotiations, but will also be affected by other variables such as:
1) Additional state matches triggered by California revenue increases are uncertain.

2) Rate of retirement population growth in Mariposa County is only speculative.

3) Federal and state pressure to reduce institutionalization may increase the number of IHSS eligible recipients over the coming years.

4) Wage negotiation outcomes are particularly hard to predict while the state’s economic position is unstable, and bargaining units are new.

These factors make it difficult to predict the increases in County IHSS spending over time, but it is safe to say that costs will escalate each year as demonstrated by those counties now using PA mode. Many counties will be forced to address this fiscal challenge. Over the next few years, Mariposa County may choose to partner with other rural counties in documenting challenges and seeking additional resources.

**SUMMARY OF RECOMMENDATIONS:**

A Public Authority be established as the employer of record for individual providers and recipients;

The Mariposa County Board of Supervisors administers the IP mode until with future plans of establishing a Public Authority.

To begin operation as a Public Authority no later than October 2003;

The planning team include appropriate representatives of the County’s Administrator, Human Services, Counsel, Fiscal departments and the Public Authority advisory committee.

Our two final recommendations have to do with amending current bylaws. As is the case in many other counties, we have had trouble in keeping Committee members. Individuals who use IHSS support services typically have personal support needs that may keep them from attending meetings on a regular basis. Further, a stipend may serve as an incentive in recruitment and help balance costs of transportation and support for Committee members. Other counties currently pay between $20.00 and $100.00, therefore, it is suggested that Mariposa County Public Authority Advisory Committee members be paid a stipend of $35.00 per meeting. We, therefore, recommend the following changes:

Current Committee bylaws be changed to reduce number of members to six (6); and

Current Committee bylaws are changed to provide a stipend to Advisory Committee members.

Respectfully submitted, IHSS Advisory Committee