California State Association of Counties
1100 K Street, Suite 101
Sacramento, CA 95814
(916) 327-7500

County Welfare Directors Association of California
925 L Street, Suite 350
Sacramento, CA 95814
(916) 443-1749

California Association of Public Authorities
1127 11th Street, Suite 701
Sacramento, CA 95814
(916) 492-9111

March 3, 2016

To: The Honorable Tony Thurmond
Chair, Assembly Budget Subcommittee No. 1

Honorable Members, Assembly Budget Subcommittee No. 1

From: Farrah McDaid Ting, Legislative Advocate, California State Association of Counties
Frank J. Mecca, Executive Director, County Welfare Directors Association
Karen Keesler, Executive Director, California Association of Public Authorities for IHSS

Re: Contract Mode Adjustments to IHSS MOE Trailer Bill Language – OPPOSE

The California State Association of Counties (CSAC), the County Welfare Directors Association (CWDA), and the California Association of Public Authorities for IHSS (CAPA) are opposed to the Administration's proposed trailer bill language (TBL) that would adjust the county In-Home Supportive Services (IHSS) Maintenance of Effort (MOE) for all increased costs of contracts in counties in the contract mode. This TBL would inappropriately shift to counties additional costs that are already covered by the IHSS MOE adjustment formula. We respectfully request that you reject or adopt a modified version of this TBL.

The IHSS MOE took effect in the 2012-13 fiscal year and changed the county contribution for IHSS Program costs. Prior to 2012-13, counties were statutorily required to cover a specified share of all nonfederal costs of the IHSS program. The IHSS MOE replaced that statutory state/county sharing ratio. It capped each county's contribution to the nonfederal costs of the IHSS program at the county's 2011-12 expenditure level and requires that the new county contribution grow annually in two ways:

- For counties that locally negotiate a wage or health benefit increase for their providers in any fiscal year, those counties' IHSS MOEs are permanently increased beginning in the fiscal year that the wage or health benefit increase takes effect for the county's share of those costs based on the previously-existing statutory state/county sharing ratios.

- Beginning in 2014-15, all counties' IHSS MOEs increase by 3.5 percent each year, except in any fiscal year in which 1991 Realignment revenues to counties declines.

The increase in the IHSS MOE for locally negotiated wage and health benefit increases ensures that counties continue to share in IHSS Program costs that are specific to IHSS and over which the county has direct control. The annual 3.5 percent inflation factor ensures that counties continue to have a share of all other IHSS costs, such as for caseload increases, increases in the costs per case, other programmatic

changes that increase costs, or other administrative costs to the IHSS Program over which the county has little or no control. The IHSS MOE does not permit the county IHSS MOE to decline in any fiscal year from the prior year.

The IHSS MOE was established in conjunction with the Coordinated of Care Initiative (CCI) and the shift of collective bargaining in the IHSS Program from counties that have fully implemented the CCI to the state. The IHSS MOE ensures that the costs resulting from any state-negotiated changes to the wage or health benefits of IHSS providers, over which counties have no control, are not shifted to the counties. The IHSS MOE was applied to all counties, and not just the original eight counties in the CCI, because eventually all counties are intended to participate in the CCI and shift IHSS collective bargaining to the Statewide Public Authority. . It is also administratively very difficult, if not impossible with our current systems, to maintain different state/county cost sharing ratios for different counties within the same program.

The IHSS statutes allow counties to contract with another agency to make available IHSS providers to ensure that the county can fulfill the statutory mandate that all authorized services are provided to every eligible IHSS participant. This is called "contract mode," and statute is specific about what costs can be covered by these contracts. IHSS providers employed by the contractor are required to be paid consistently with other non-contract IHSS providers in the county. The contract costs also cover costs of the contractor over which the county, and the contractor itself in many cases, have no control, such as taxes, insurance costs, and the costs of state and federal changes to the program. The statute permits the contract to cover the actual, documented expenditures of the contractor and any reasonable costs over which the contractor has no control.

There are currently only two counties that participate in this "contract mode," San Francisco and San Mateo, and in even in those counties, contract providers are used to provide services to only a minority of consumers. The use of non-contract IHSS providers is the vastly preferred method of providing IHSS services to consumers, as it provides consumers more choice and control in who their providers are. However, for some high need, difficult-to-serve consumers or consumers with no provider choices, contract providers are the only means to keep these IHSS consumers living safely in their own homes and out of more costly institutional care.

The Administration's proposed TBL would adjust a "contract mode" county's IHSS MOE for ALL increases in the cost of the contract, not just those cost increases associated with locally negotiated provider wage or health benefit increases. The contract costs that are not associated with provider wages and health benefits are comparable to other IHSS costs that are already covered by the 3.5 percent inflation factor and do not result in the calculation of a separate IHSS MOE adjustment in addition to that 3.5 percent. The proposed TBL is inconsistent with the existing statutory framework for how counties' IHSS MOEs are to grow over time. That framework for growth was part of the original IHSS MOE agreement between the Administration and counties when the IHSS MOE was put into place. The proposed TBL would, in effect, result in a county being charged twice for those contract cost increases that are beyond provider wages and health benefits, once as a part of the 3.5 percent inflation adjustment and again in the separately calculated IHSS MOE adjustment.

CSAC and CWDA are not opposed to TBL that would clarify that county IHSS MOEs should be increased for the county's share of contract provider wage or health benefit increases resulting from local negotiations, consistent with the IHSS MOE adjustment made for locally negotiated wage or health benefit increases for all other IHSS providers. The proposed TBL is currently much broader than that. Therefore, we respectfully request that you either reject the proposed TBL or adopt a modified version that is consistent with current law.

Sincerely,

Farrah McDaid Ting
CSAC Legislative Representative
fmcdaid@counties.org
(916) 650-8110

Frank Mecca
CWDA Executive Director
fmecca@cwda.org
(916) 443-1749

Karen Keeslar
CAPA Executive Director
(916) 492-9111

cc: Gail Gronert, Office of the Assembly Speaker
Chris Woods, Office of the Assembly Speaker
Nicole Vazquez, Assembly Budget Subcommittee No. 1
Cyndi Hillery, Assembly Republican Fiscal
Will Lightbourne, Department of Social Services
Robert Smith, Department of Social Services
Michael Wilkening, Health and Human Services Agency
Matt Paulin, Department of Finance
Jay Kapoor, Department of Finance
Mark Newton, Legislative Analyst's Office
Ginni Bella Navarre, Legislative Analyst's Office
Callie Freitag, Legislative Analyst's Office
County Caucus