



COMMUNITY SERVICES AGENCY

Larry B. Poaster, Ph.D.
Interim Director

251 E. Hackett Road
P.O. Box 42, Modesto, CA 95353-0042

Phone: 209.558.2500 Fax: 209.558.2558

**STANISLAUS COUNTY
IHSS ADVISORY COMMITTEE MEETING
MINUTES**

08/09/02

Committee Members Present:	Jeff Lambaren Ora Scruggs Dwight Bateman	Kenny Brown Rose Martin	Madelyn Amaral Jose Acosta
Committee Members Absent:	Toni Hector	Bonnie Cyphers	Connie Muller
IHSS Staff Present:	Jan Holden	Paul Birmingham	Larry Baptista
CSA Staff Present:	Tom Snow		

OPENING REMARKS by CHAIRMAN JEFF LAMBAREN

- Meeting called to order at 1:10 p.m.
- Announcement made allowing for public comment.

PUBLIC COMMENT

- Round table of introductions by committee members.
- Introduction of the United Domestic Workers members attending the meeting.

ACCEPTANCE OF MINUTES

- July 26, 2002 minutes: Motion M/S/A to accept minutes with no corrections.

BUDGET UPDATE by Paul Birmingham

- Paul Birmingham told the committee that a State Budget still has not been adopted.
- The \$1.00 trigger for Public Authority wages is back in the budget this year but it is unclear whether or not there needs to be a separate appropriation of money to fund the increase.
- There was news in the Sacramento Bee that the Governor is planning a 20% cut in all State departments next year (03-04).
- County budget is ongoing and the balanced budget submitted from CSA includes cuts in APS (SW III's) and IHSS nurses.
- No layoffs are planned, but staff may be moved to other departments.
- The County has officially asked the State to consider increasing Stanislaus County's administrative allocation because of increased cost relating to implementing the "Employer of Record", such as, union negotiations or liability insurance.



MEMBERSHIP UPDATE: VACANCIES, ABSENCES AND BYLAWS

- Handed out copies of some sample bylaws from other committees.
- Committee requested staff to draft a letter to members who are frequently absent to see if they are interested in staying on the committee.
- If the absent committee members who are contacted, resign from the committee, then staff is directed to contact new prospective members from the application list.
- Committee members will look over bylaws and discuss at next meeting.

FINAL DRAFT OF THE “EMPLOYER OF RECORD” RECOMMENDATION

- Handed out both copies of the “Employer of Record” recommendation.
- Handed out copies of the budget graphs and charts
- Kenny Brown stated that the second paragraph on the first page and the last paragraph on the third page are almost the same. He suggested that the paragraph on the third page be split, with the first part substituting for the second paragraph on page one and the second part be left as a concluding statement.
- The executive summary is included in the body of the entire analysis and recommendation along with the budget graphs and charts.

UNITED DOMESTIC WORKERS OF AMERICA

- Kristi Rosenquist said that some workers have been contacting the registry regarding work but they get voice mail and no one returns their call. Paul Birmingham said that he would discuss this with the Center for Senior Employment.
- Dwight Bateman asked staff to inquire about having a presentation on how the registry is setup and functions.
- Jan Holden stated that the County does not allow social workers to directly refer providers to recipients.
- Kristi Rosenquist asked when the Committee was going to set a date for the ordinance? Dwight Bateman replied that the committee is going through the process as fast as they can before the January 1, 2003 deadline. The committee is looking at a calendar date of the second week in September 2002 for the recommendation to go to the Board of Supervisors.
- Paul Birmingham said that the option that the committee is recommending may not require an ordinance since the committee did not select a Public Authority and that the CEO may be able to make an executive declaration with the Board’s consent to give a starting date.
- Seneca Scott from UDW gave a brief presentation regarding concerns and interests. He stated that UDW did not have an interest in what “Employer of Record” option the County chose. They weren’t for or against any option. They just want to know how soon there would be an “Employer of Record” for the Union to meet with. He said the Union wanted a meeting to discuss the special needs of Homecare Workers.
- Charlotte Herron from UDW gave a brief presentation for Jorge Rivera, who could not attend the meeting. He stated in her presentation that he did not think that the committee was moving in a timely matter to come to a recommendation and that the Union is considering going to the Board and asking that Paul Birmingham and CSA staff be replaced with someone who could move the committee faster.
- Committee members felt strongly that Paul Birmingham and Jan Holden should not be replaced and that committee members would resign if the Union caused that to happen.
- Committee members expressed concern that UDW was questioning their integrity and commitment to recommending an “Employer of Record”.
- Seneca Scott stated that he did not question the integrity of the committee but just want to make sure that the committee and the union can continue to work together and come to an agreement by the deadline.
- Pat Sweeny, Deputy Executive Officer with Human Resources division of CEO office, said that Paul Birmingham and Jeff Lambaren has contacted their office about the “Employer of Record” recommendation and that they would be working with the Union around a variety of issues.
- Discussion regarding when the recommendation should be presented to the Board of Supervisors. Committee members and Pat Sweeny agreed that it would be better to go before the Board after the Budget meeting on September 17, 2002.

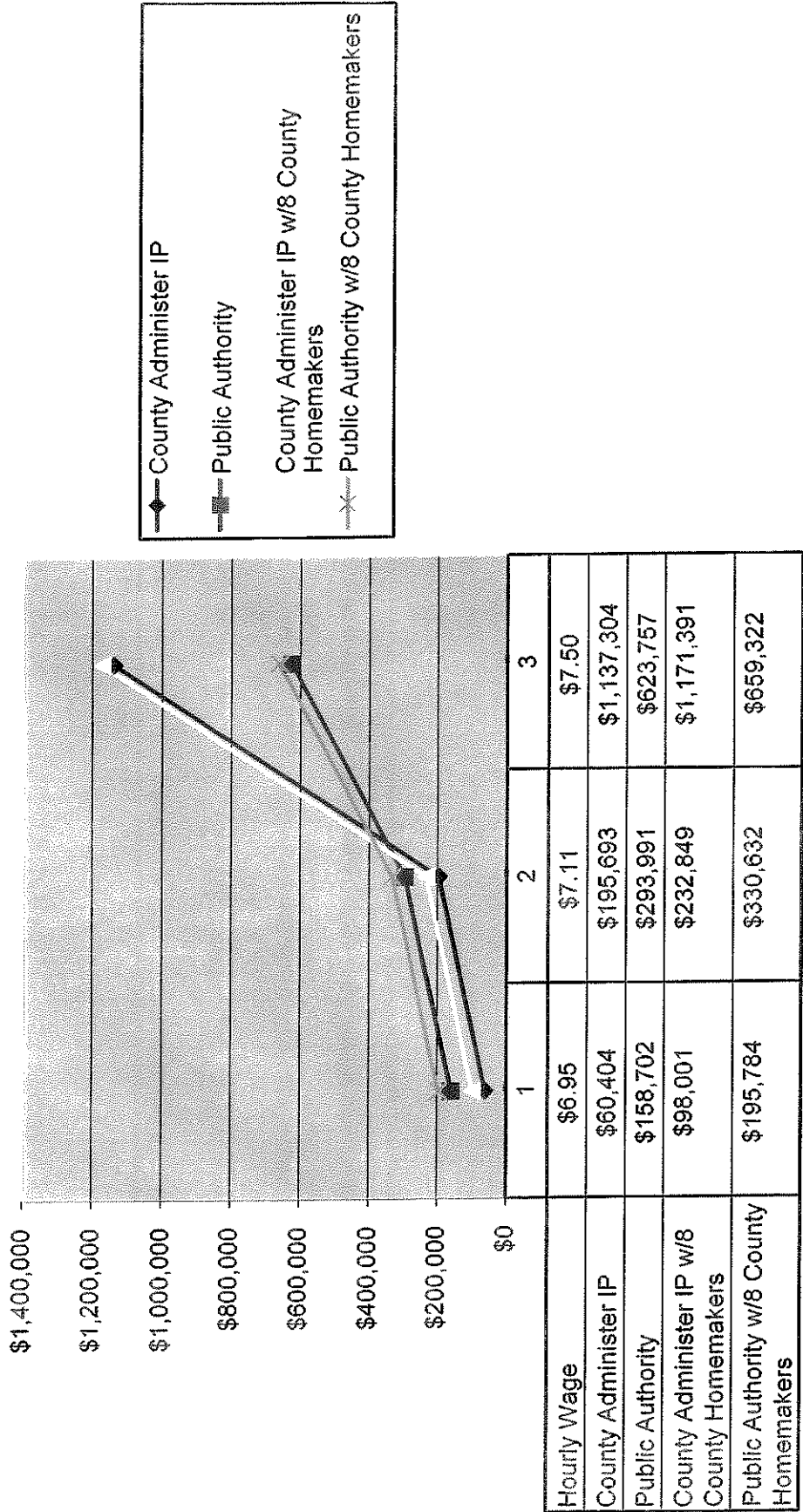
QUESTIONS AND ANSWERS

AGENDA ITEMS FOR NEXT MEETING

- Committee membership/bylaws
- Final Draft
- Presentation on the IHSS Registry
- Design of a Public Authority

Meeting adjourned @ 2:36pm
Larry Baptista, Recorder

**IHSS Employer of Record County Share of Cost Comparison
Increase to county share
from current operations (Final Budget-balanced)**

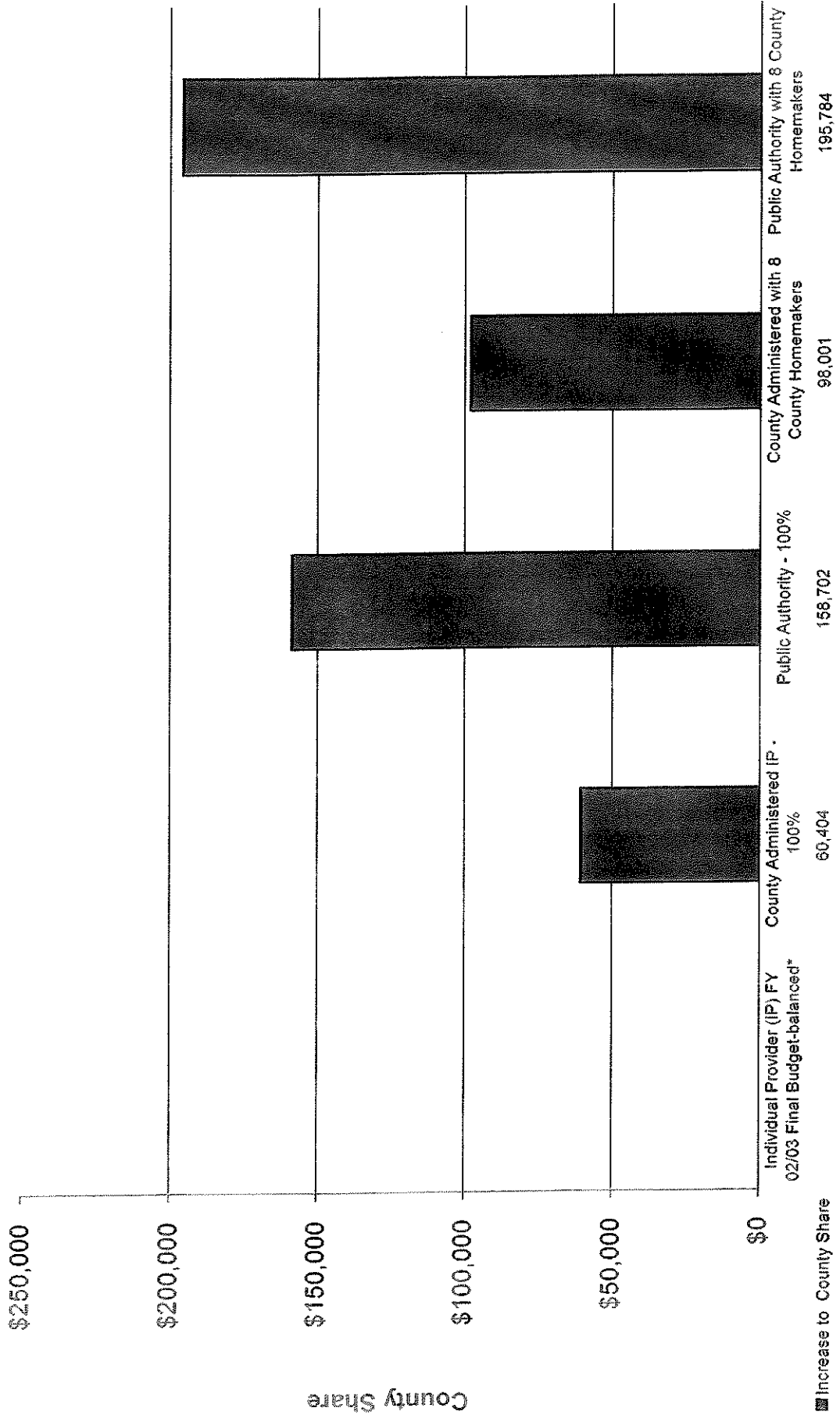


County Share Increase (annual)

Hourly Wage

◆ County Administer IP
 ■ Public Authority
 ◆ County Administer IP w/8 County Homemakers
 ✕ Public Authority w/8 County Homemakers

IHSS Employer of Record County Share of Cost Comparison at \$6.95



■ Increase to County Share

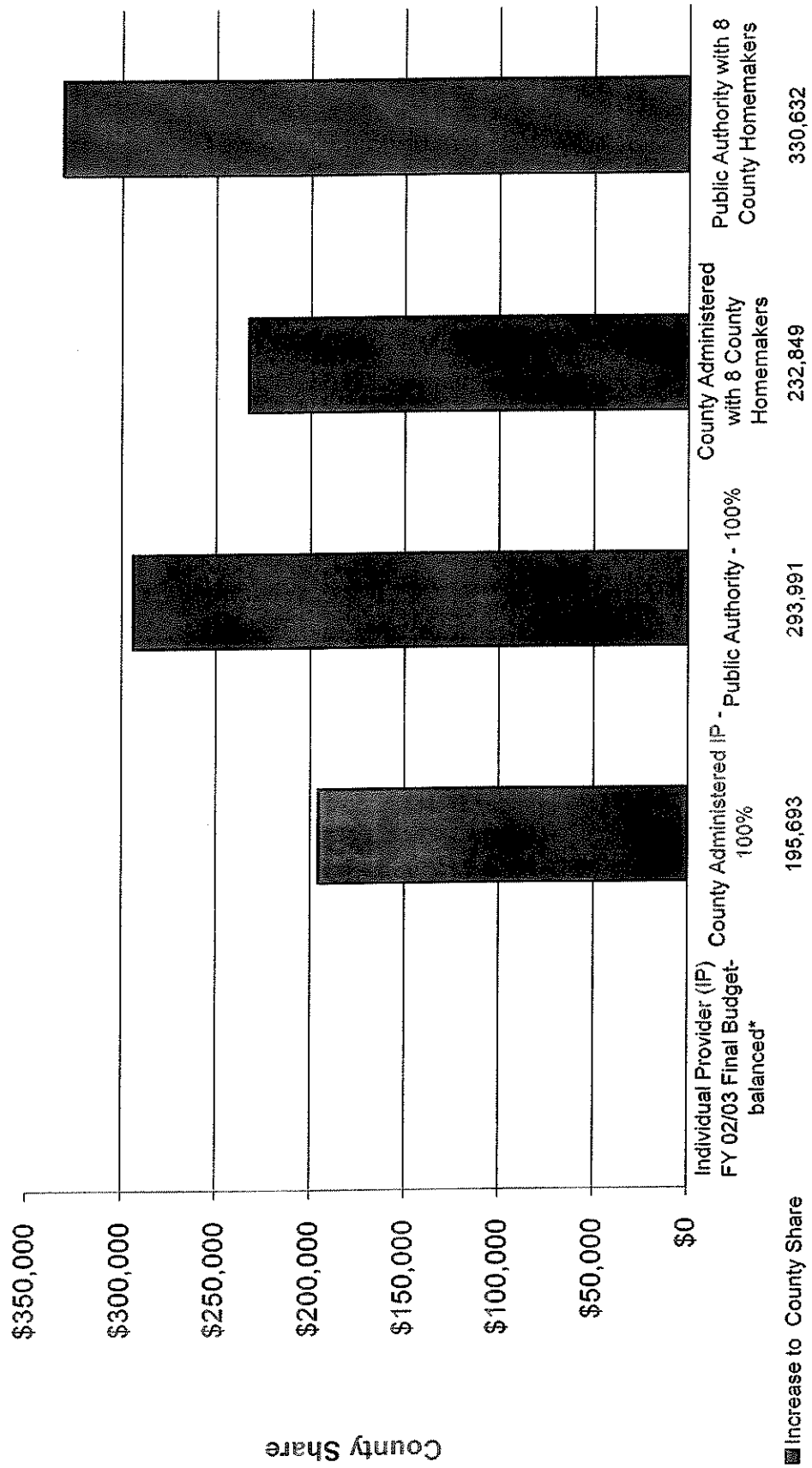
IHSS EMPLOYER OF RECORD
COUNTY SHARE COST COMPARISON

at \$6.95 an hour

Title	Individual Provider (IP) FY 02/03 Final Budget- balanced*	County Administered IP - 100%	Public Authority - 100%	County Administered with 8 County Homemakers	Public Authority with 8 County Homemakers
Admin. Costs	\$2,933,120	3,324,206	2,933,120	3,393,480	3,002,393
County Share of Admin. Costs	\$448,767	508,604	448,767	519,202	459,366
Program Costs	\$29,723,016	29,725,835	\$30,511,011	29,859,890	30,642,505
County Share of Prog. Costs	\$5,986,215	5,986,783	6,144,918	6,013,782	6,171,401
Total Costs (Admin & Program)	\$32,656,136	33,050,042	33,444,131	33,253,369	33,644,899
Total County Share	\$6,434,983	6,495,387	6,593,685	6,532,984	6,630,767
Less Current County Share		6,434,983	6,434,983	6,434,983	6,434,983
Increase to County Share		60,404	158,702	98,001	195,784

*Final Budget is a balanced budget which includes a reduction of FTE's and Public Health Nurses. Confirmation of receiving County Administered IP funding is still pending with the state.

IHSS Employer of Record County Share of Cost Comparison at \$7.11

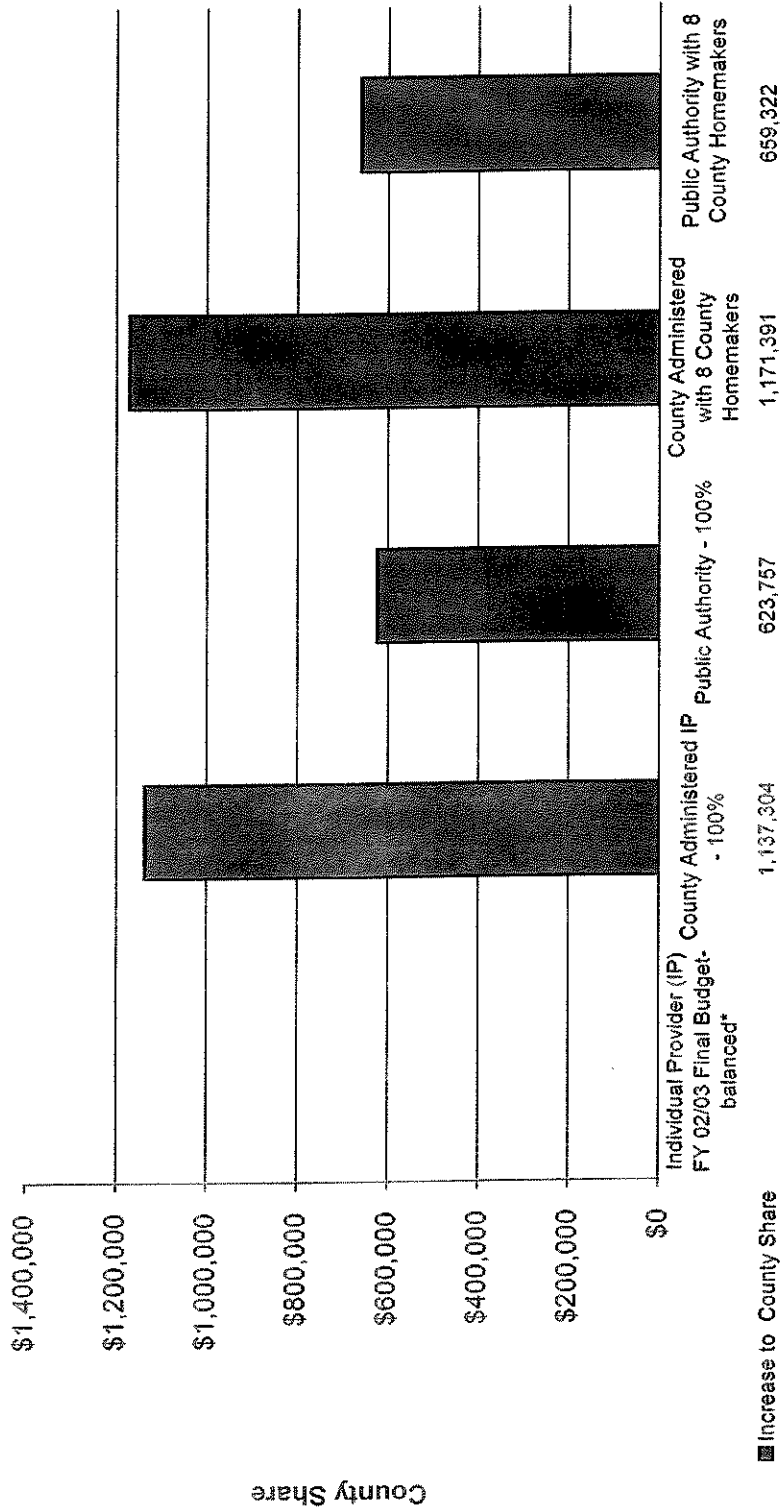


IHSS EMPLOYER OF RECORD
COUNTY SHARE COST COMPARISON
at \$7.11 an hour

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County Share of Admin. Costs	\$448,767	508,604	448,767	519,202	459,366
Program Costs	\$29,723,016	30,397,576	31,182,752	30,529,440	31,312,056
County Share of Prog. Costs	\$5,986,215	6,122,072	6,280,206	6,148,629	6,305,248
Total Costs (Admin & Program)	\$32,656,136	33,721,783	34,115,872	33,922,920	34,314,450
Total County Share	\$6,434,983	6,630,675	6,728,974	6,667,832	6,765,614
Less Current County Share		6,434,983	6,434,983	6,434,983	6,434,983
Increase to County Share		195,693	293,991	232,849	330,632

*Final Budget is a balanced budget which includes a reduction of FTE's and Public Health Nurses. Confirmation of receiving County Administered IP funding is still pending with the state.

IHSS Employer of Record County Share of Cost Comparison at \$7.50



IHSS EMPLOYER OF RECORD
COUNTY SHARE COST COMPARISON
at \$7.50 an hour

Title	Individual Provider (IP) FY 02/03 Final Budget- balanced*	County Administered IP - 100%	Public Authority - 100%	County Administered with 8 County Homemakers	Public Authority with 8 County Homemakers
Admin. Costs	\$2,933,120	3,324,206	2,933,120	3,393,480	3,002,393
County Share of Admin. Costs	\$448,767	508,604	448,767	519,202	459,366
Program Costs	\$29,723,016	32,034,945	32,820,121	32,161,471	32,944,067
County Share of Prog. Costs	\$5,986,215	7,063,684	6,609,972	7,087,171	6,634,939
Total Costs (Admin & Program)	\$32,656,136	35,359,152	35,753,241	35,554,950	35,946,480
Total County Share	\$6,434,983	7,572,287	7,058,740	7,606,373	7,094,305
Less Current County Share		6,434,983	6,434,983	6,434,983	6,434,983
Increase to County Share		1,137,304	623,757	1,171,391	659,322

*Final Budget is a balanced budget which includes a reduction of FTE's and Public Health Nurses. Confirmation of receiving County Administered IP funding is still pending with the state.

BYLAWS

ARTICLE I

Name

The name of this body shall be the Stanislaus County Community Services Agency Adult Services Advisory Committee. Whenever the term "Committee" is used in these Bylaws, it shall mean the Stanislaus County Community Services Agency, Adult Services Advisory Committee (SCCSA-ASAC).

ARTICLE II

Authority

The authority for the formation and operation of the Committee is under the auspices of the Director of the Stanislaus County Community Services Agency.

ARTICLE III

Purpose

Mission:

1. To advise and support the Adult Services staff to reach the mission of protecting elderly and dependent adults from abuse and neglect, provide temporary economic assistance and a secure source of financial support to SSI recipients, and assist adults and frail seniors to remain safely in their own home.
2. To increase community awareness of the role of the Committee as well as the services provided by the Adult Services Division of the Community Services Agency.
3. To inform Adult Services Division consumers of the existence of the Adult Services Advisory Committee, and its role in advocating for and supporting their needs.
4. To advise or assist the Adult Services Division of the Community Services Agency in the following:
 - recruitment and interviewing of new staff;
 - development of staff training;
 - yearly strategic planning of the Adult Services Division;
 - development and revision of policies and procedures; and
 - support of relevant legislation.
5. To serve as liaison between consumers, staff and the Community Services Agency.
6. To improve collaboration and integration of services for adults throughout the community.

ARTICLE IV

Membership

Section 1: Composition

The composition of the Committee will consist of at least 10 members and no more than 25 members. The Committee will strive to create a balance according to geography, ethnic and cultural origin and between consumers, consumer advocates, providers of services and adult service agencies.

Section 2: Selection of Committee Members

Applications for Committee membership will be reviewed by the Membership and Leadership Selection Committee and selected names submitted to the Community Services Agency Director with recommendation for appointment.

Section 3: Term of Committee Membership

The term of Committee membership will be two years.

Section 4: Attendance at Meetings

Members are expected to attend all meetings of the Committee. A member who is unable to attend a given meeting shall give advance notice of his or her inability to attend to the Chairperson or Vice Chairperson of the Committee.

Section 5: Absences

A member who has two consecutive unexcused absences or four total annual absences, shall be deemed to have resigned automatically from the Committee. In such event, the member will be notified by mail, and the member's status will be noted at the next scheduled meeting and recorded in the Committee's minutes. The Chairperson shall without further direction from the Committee, apprise the Director of the member's resignation.

Agency representative members on active membership status may send another individual to represent them when they cannot attend a regular meeting. This alternate representative does have voting status.

Section 6: Leave of Absence

Any member may, once during his or her term of membership, use a leave of absence for a period of up to four months in length. This shall be applied for by written notification to the Chairperson and shall become effective upon the Chairperson's receipt of the written notification. In the event a member has used more than two consecutive absences just prior to applying for a leave of absence, the leave of absence shall then become effective two months prior to the Chairperson's receipt of written notification.

ARTICLE V

Officers

Section 1:

The officers of the Committee shall consist of a Chairperson and a Vice-Chairperson who shall be elected annually. Officers shall be elected to serve for one year or until their successors are elected.

Section 2:

Election of officers shall be held no later than the first regularly scheduled meeting of the Committee in January of each new calendar year.

Section 3:

Nominations shall be submitted by the Membership and Leadership Committee in November, or made from the floor.

Section 4:

The Chairperson or Vice-Chairperson may be removed from office and relieved of duties by a majority of the membership meeting in special session.

Section 5:

Upon resignation or removal of the Chairperson, the Vice-Chairperson shall ascend to the Office of the Chairperson for the duration of the unserved term. An election for the vacant office of Vice-Chairperson shall be conducted.

ARTICLE VI

Meetings

Section 1: Frequency and Time of Meetings

There shall be a minimum of nine (9) regular meetings annually, to be held on the second Thursday of each month. Holding meetings during the months of July or August and December will be optional. There shall be an agenda and meeting announcement sent to members prior to each regularly scheduled meeting.

Section 2: Special Meetings

Special meetings may be called by the Chairperson or the Community Services Agency.

Section 3: Public Participation

All meetings of the Committee and any subcommittees shall be open to the public.

ARTICLE VII

Subcommittees

Section 1: Subcommittees

There shall be at least one standing subcommittee: The Membership and Leadership Selection Subcommittee. The Chairperson of this standing subcommittee shall be the Vice-Chairperson of the Committee.

There may be other special ad hoc subcommittees. The Chairperson shall appoint membership with the approval of the Committee.

ARTICLE VIII

General Issues

Section 1: Conduct of Meetings

The meetings of the Committee shall be conducted in accordance with Roberts Rules of Order (Revised Edition).

Section 2: Quorum

A quorum shall be a simple majority of the total official membership.

Regular meetings may occur in the absence of a quorum. Issues requiring a vote when a quorum is not present may be presented for a vote to the membership by mail.

Section 3: Conflict of Interest

In any case when a motion is being considered or voted upon by the Committee that involves potential financial regard to, or the review of, an agency or enterprise with which the individual Committee member(s) is affiliated, the Committee member(s) shall abstain from such vote.

ARTICLE IX

Adoption and Amendment

Section 1: Adoption

These Bylaws shall become effective immediately upon approval by a majority of the membership of the Committee and approval of the Director of the Community Services Agency.

Section 2: Amendment

These Bylaws are subject to amendment in accordance with Roberts Rules of Order. The Bylaws may be amended by a two-thirds (2/3) vote by a quorum of the Committee and subsequent approval by the Community Services Agency Director, provided that fifteen (15) days prior to the meeting the full Committee is notified of the language of such change(s) and of the time, date, and place of the intended voting on such change(s).

Adopted by the Committee

on _____

Chairperson

Approved

Jeffrey Jue, Director
Stanislaus County Community Services Agency

Revised 11/99

**IHSS ADVISORY COMMITTEE
EXECUTIVE SUMMARY
AB 1682 RECOMMENDATIONS
JULY 26, 2002**

FINAL DRAFT

II. RECOMMENDATIONS

Employer of Record

The IHSS Advisory Committee has a strong commitment to promoting and implementing an IHSS mode that emphasizes and provides the opportunity for maximum consumer participation and control in the IHSS Program.

The IHSS Advisory Committee considered both the Public Authority (PA) Mode and the County Administration of the IP Mode in depth to arrive at their recommendation. The PA Mode allows the most consumer participation and control of the two modes. The IHSS Advisory Committee visited the San Francisco Public Authority and saw an entity that was operated by and for IHSS consumers. The PA in San Francisco is an ideal model and any county and IHSS Advisory Committee would want to emulate its structure.

The IHSS Advisory Committee looked at all aspects of the modes, not just consumer participation and control. In addition to consumer participation, the Committee also considered cost effectiveness, liability, and the time needed to implement the Employer of Record portion of AB 1682.

The IHSS Advisory Committee's preference would have been to recommend a PA be the Employer of Record based upon consumer participation and control, however taking into account the following:

- The 2002/2003 state and county budget.
- The most cost effective option up until the time the \$7.11 IP wage cap is reached is a County Administration of the IP mode.

- The time involved in creating a PA is considerable and it is doubtful that a PA could be up and functioning by the deadline of 01/01/03.

The IHSS Advisory Committee recommends that the Employer of Record in Stanislaus County for the IHSS Program be the County Administration of the IP Mode.

The IHSS Advisory Committee's commitment to seeing a Public Authority Mode in Stanislaus County remains a priority. It is the Committee's intention to return to the Board of Supervisors with a recommendation of a PA once IP wages in the county reach \$7.11 per hour.

After careful consideration, the IHSS Advisory Committee makes the following recommendation for a unified series of County actions. These actions would represent the County's comprehensive response to the mandates of AB 1682.

The Board of Supervisors will direct that Stanislaus County change to the **County Administration of the IP Mode as specified in AB 1682. This action will address the issue of the employer of record.** The Board would direct that prior to January 1, 2003, the Chief Executive Officer (CEO) and the Community Service Agency (CSA) Director take the necessary actions to ensure that Stanislaus County is recognized as the employer of record of Stanislaus County IHSS Individual Providers for the purposes and provisions of statutory law regarding employer-employee relations. The CEO's and CSA Director's actions would include being ready by January 1, 2003, to conduct normal union management relations with any union representing or organizing IHSS Individual Providers.

This recommendation is conditioned on the concurrence of the CEO Risk Manager and the County Counsel with this action. The CEO Risk Manager and County Counsel must concur that a County Administered IP Program creates no new "special" or unreasonable county liability beyond that associated with the current operation of the IHSS Program.

The Committee recommends that the County continue the Supported Individual Provider mode enhancements in place in Stanislaus County. The Committee also recommends that the CSA be directed to work with the current Non Profit Organization providing IP registry service to monitor the

quality of that service. That CSA and the registry vendor evaluate and if possible obtain proven software that matches IHSS Recipients and Providers in an advanced manner.

The Committee recommends that the Board of Supervisors establish the Homemaker Mode in Stanislaus County. This action will make Stanislaus County a mixed mode county. A limited use of the Homemaker Mode offers significant cost-effective enhancements to the IHSS program. These enhancements are in areas such as, emergency care, respite care, and the care of new clients. The recommended effective date of implementation of the Homemaker Mode is January 1, 2003.

The Committee recommends that the Board of Supervisors agree to revisit the issue of establishing a Public Authority once the IP wage cap of \$7.11 per hour is reached. The Board at that time should receive a report from this committee on the success of Public Authorities established under AB 1682, Public Authorities that existed prior to AB 1682, and the advisability of going forward with a Public Authority in Stanislaus County.

The Committee recommends that the Board adopt a position of advocacy for legislation that would require the State of California to treat equally all counties' IP wage rates or IP benefits arrived at through collective bargaining. This would require the State of California to participate in any wage or benefit arrived at in Stanislaus County through collective bargaining, as it would participate in any other county. In the opinion of the committee, this is an issue of "equal protection under the law" for residents of Stanislaus County.

The IHSS Advisory Committee considered both the PA option and the County Administration of the IP Mode in depth to arrive at their recommendation. The PA option had many attractive features, especially in the area of consumer participation that, at a future time, in a better budget climate could be considered an alternative to the present recommendation of County Administration of the IP Mode. The Committee has received credible testimony that a County Administered IP Mode does not contain special or new unreasonable risks of liability for the county. The committee believes, on advice, that administering a county IHSS program in any fashion always poses great potential risk but that AB 1682 does not create new risks.

**ANALYSIS OF AB 1682 OPTIONS
AND
RECOMMENDATIONS OF THE IHSS ADVISORY COMMITTEE
FINAL DRAFT
JULY 26, 2002**

I. BACKGROUND INFORMATION

The In-Home Supportive Services Program

In-Home Supportive Services (IHSS) is a State-mandated program providing services to more than 4,000 aged, blind and disabled low-income individuals in Stanislaus County. IHSS provides in-home assistance in order to prevent premature nursing home or board and care placement.

In Stanislaus County, IHSS is provided through the Individual Provider (IP) mode. In the Individual Provider mode, the IHSS recipient is considered the employer and is responsible for hiring, firing, supervising and training his/her own provider of service. Stanislaus County provides an enhancement to the Individual Provider mode through its Supported Individual Provider option. The Supported Individual Provider option provides for increased support to the IHSS recipient via a contract for a registry of available providers and county staff to assist recipients in interviewing and hiring providers.

Employer of Record Legislation

In July of 1999, the Governor signed AB 1682 (W&I Code 12301.3) which called for all counties to establish an employer of record for the IHSS program by January 2003. The law also required the formation of an IHSS advisory committee, which was to submit recommendations to the county board of supervisors on the preferred mode or modes of service to be used for IHSS. This advisory committee is also responsible for providing ongoing advice and recommendations regarding IHSS to the board of supervisors as well as to the administrative body responsible for IHSS.

The employer of record is a formal entity that can negotiate with a designated labor union for increased wages, health care benefits as well as for other terms and conditions of employment.

The law provides counties with several options to implement the mandate for an employer of record, including the establishment of a Public Authority or a Non-Profit Consortium, the contract mode, county personnel or county administration of the individual provider mode.

State law mandates that any county with 500 or more IHSS cases must maintain an individual provider mode. The only options that meet this requirement are the Public Authority, the Non-Profit

Consortium and the County Administration of the IP Mode. Any of those options can be used exclusively as the employer of record or in conjunction with another option under Mixed Mode.

By law, the County Board of Supervisors retains full responsibility for, and authority over, the approval and authorization of expenditures related to the In-Home Supportive Services (IHSS) Program. No contracts can be entered into and no increases in wages and benefits resulting from collective bargaining can be authorized without prior approval from the Board of Supervisors.

The IHSS Advisory Committee

On September 13, 2001 the Stanislaus County Board of Supervisors established the IHSS Advisory Committee. By law, this committee must consist of no more than 11 individuals, with no less than 50% of the members being individuals who are current or past users of personal assistance services and two members who are past or present IHSS care providers.

The members of Stanislaus County's IHSS Advisory Committee are:

Jose Acosta, Consumer	Bonnie Cyphers, Provider
Kenny Brown, Consumer	Toni Hector, Provider
Rose Martin, Consumer	Madelyn Amaral, Advocate/Provider
Connie Muller, Consumer	Dwight Bateman, Advocate (DRAIL)
Ora Scruggs, Consumer	Jeff Lambaren, CEO's Office

This Committee has three major tasks:

1. To study and recommend to the Board of Supervisors an employer of record for IHSS Providers.
2. To provide guidance in establishing the employer of record selected by the Board of Supervisors.
3. To provide ongoing advice and recommendations regarding IHSS services to the Board of Supervisors and any agency charged with the delivery and administration of IHSS services.

The challenge for the IHSS Advisory Committee, the Board of Supervisors and the Community Services Agency is to develop an employer of record that protects the interests of the IHSS consumers, provides equity for the IHSS providers and performs its responsibilities in a fiscally responsible manner. The following recommendation is made keeping that balance in mind.

II. RECOMMENDATIONS

The IHSS Advisory Committee has a strong commitment to promoting and implementing an IHSS mode that emphasizes and provides the opportunity for maximum consumer participation and control in the IHSS Program.

The IHSS Advisory Committee considered both the Public Authority (PA) Mode and the County Administration of the IP Mode in depth to arrive at their recommendation. The PA Mode allows the most consumer participation and control of the two modes. The IHSS Advisory Committee visited the San Francisco Public Authority and saw an entity that was operated by and for IHSS consumers. The PA in San Francisco is an ideal model and any county and IHSS Advisory Committee would want to emulate its structure.

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The IHSS Advisory Committee's preference would have been to recommend a PA be the Employer of Record based upon consumer participation and control, however taking into account the following:

- The 2002/2003 state and county budget.
- The most cost effective option up until the time the \$7.11 IP wage cap is reached is a County Administration of the IP mode.
- The time involved in creating a PA is considerable and it is doubtful that a PA could be up and functioning by the deadline of 01/01/03.

The IHSS Advisory Committee recommends that the Employer of Record in Stanislaus County for the IHSS Program be the County Administration of the IP Mode.

The IHSS Advisory Committee's commitment to seeing a Public Authority Mode in Stanislaus County remains a priority. It is the Committee's intention to return to the Board of Supervisors with a recommendation of a PA once IP wages in the county reach \$7.11 per hour.

After careful consideration, the IHSS Advisory Committee makes the following recommendation for a unified series of County actions. These actions would represent the County's comprehensive response to the mandates of AB 1682.

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Director's actions would include being ready by January 1, 2003, to conduct normal union management relations with any union representing or organizing IHSS Individual Providers.

This recommendation is conditioned on the concurrence of the CEO Risk Manager and the County Counsel with this action. The CEO Risk Manager and County Counsel must concur that a County Administered IP Program creates no new "special" or unreasonable county liability beyond that associated with the current operation of the IHSS Program.

The Committee recommends that the County continue the Supported Individual Provider mode enhancements in place in Stanislaus County. The Committee also recommends that the CSA be directed to work with the current Non Profit Organization providing IP registry service to monitor the quality of that service. That CSA and the registry vendor evaluate and if possible obtain proven software that matches IHSS Recipients and Providers in an advanced manner.

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The Committee recommends that the Board of Supervisors agree to revisit the issue of establishing a Public Authority once the IP wage cap of \$7.11 per hour is reached. The Board at that time should receive a report from this committee on the success of Public Authorities established under AB 1682, Public Authorities that existed prior to AB 1682, and the advisability of going forward with a Public Authority in Stanislaus County.

The Committee recommends that the Board adopt a position of advocacy for legislation that would require the State of California to treat equally all counties' IP wage rates or IP benefits arrived at through collective bargaining. This would require the State of California to participate in any wage or benefit arrived at in Stanislaus County through collective bargaining, as it would participate in any other county. In the opinion of the committee, this is an issue of "equal protection under the law" for residents of Stanislaus County.

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III. RATIONALE

Employer of Record Options

Six choices exist for consideration by the IHSS Advisory Committee in the selection of an employer of record for In-Home Supportive Services (IHSS) providers: Public Authority, Non-Profit Consortium, Homemaker Mode, Contract Mode, County Administration of the Individual Provider (IP) Mode and Mixed Mode. Since AB 1682 requires that any county with 500 or more IHSS cases must offer the Individual Provider Mode the available options for Stanislaus County were a Public Authority, a Non-Profit Consortium, a County Administration of the IP Mode and Mixed Modes.

The IHSS Advisory Committee carefully studied the options of Public Authority, Non-Profit Consortium and County Administration of the IP Mode prior to arriving at their decision to recommend a mixed mode of the County Administration of the IP Mode and Homemaker Mode. The option of a Non-Profit Consortium was not considered a viable choice since no IHSS Non-Profit consortium exists in Stanislaus County or any other county and there is no statutory definition of a Non-Profit Consortium.

The IHSS Advisory Committee compared the options of Public Authority and County Administration of the IP Mode in the areas of advantages to consumers and providers or enhancements to the IHSS Program, costs, consumer participation, wages and liability issues.

Public Authority (PA)

- A PA is a separate entity and is prohibited from being a County Agency or department. Prior to any negotiations for wages and benefits for IHSS Providers, a significant amount of money will be spent to set up this separate agency. Costs will include staffing and equipment for a new agency.
- A PA is required by AB 1682 to provide the following services:
 1. Employer of record for collective bargaining for all of the IHSS providers in the county
 2. Establish an IHSS provider registry and referral system
 3. Background checks of potential providers
 4. Provide for training for providers and consumers
 5. Ensure that requirements of the personal care option are met
 6. Perform any other functions related to the delivery of IHSS
- AB 1682 provides statutory language that appears to give some protection from liability claims against negligent providers.
- A PA is the “Employer of Record” for all of the IHSS providers in a county, even if the provider is not on the PA registry.

- The IHSS recipient retains the right to hire, fire and set working conditions for their IHSS provider.

County Administration of the IP Mode

- The County is the “Employer of Record” of IHSS providers **solely for the purpose of bargaining for wages and benefits.**
- The IHSS recipient retains the right to hire, fire and set working conditions.

Stanislaus County currently provides an enhancement to the IP mode, the Supported IP option. Stanislaus County’s enhanced IHSS program provides the following services:

- Registry service via a contract with the Center for Senior Employment.
- A local background check on providers who are on the Registry.
- Free training offered to all IP’s.

FISCAL ANALYSIS:

METHOD:

Comparisons of ongoing annual costs for all of the employer of record options were developed by Accounting Analysts from the Community Services Agency. The IHSS Advisory Committee focused on the estimated annual costs associated with the PA, County Administration of the IP Mode and Mixed Mode.

ANALYSIS:

Please see Attachment A for cost comparisons.

CONCLUSION:

Upon review and consideration of the cost analysis developed by the Analysts, the IHSS Advisory Committee concluded that the County Administration of the IP Mode had the least impact upon county funding. The IHSS Advisory Committee also concluded that the Mixed Mode option of a County Administration of the IP Mode with the County Homemaker Mode provided a unique opportunity to provide a much needed enhancement that would directly impact the safety and health of the aged and disabled within our community at a reasonable cost.

Consumer Participation:

AB 1682 guarantees on going consumer participation under both the PA and the County Administration of the IP Mode option. Even after the decision regarding the employer of record has been made, the IHSS Advisory Committee will continue to meet and make recommendations regarding the IHSS Program.

Community Forums:

Community forums to address AB 1682 and the employer of record issue were conducted by members of the IHSS Advisory Committee in the following communities on the following dates:

Turlock	May 30, 2002
Oakdale	June 13, 2002
Patterson	June 20, 2002

There were over 40 attendees at the Turlock forum and less than 15 attendee at each of the forums in Oakdale and Patterson. The majority of attendees appeared to be IHSS providers who expressed concerns about the low wages paid to providers.

Wages & Benefits:

The potential for increased wages and benefits is significantly different for the PA and the County Administration of the IP Mode.

Legislation in 2001 allows full participation by the state, in IHSS provider wages and benefits for the PA counties up to \$9.10 per hour and the potential for full State participation in wages and benefits up to \$12.10 per hour in the future. The wages and benefits are funded by federal, state and county monies.

In counties that do not have a PA as the employer of record the State will not participate in wages and benefits above \$7.11 per hour.

If a County Administered IP county, through collective bargaining, agreed to pay providers above the \$7.11 per hour wage cap, the State would not pay any of their share of wages and benefits above \$7.11 per hour.

Liability:

AB 1682 appears to provide the County and the State some statutory protection from liability if a PA is established as the employer of record. This issue has never been tested in court.

The liability protection granted a PA under AB 1682 has been in place for PA counties since 1993 when legislation approving the PA option was implemented.

There is no specific statutory protection from liability in AB 1682 if the County assumes the role of the employer of record. However, there is nothing to indicate that any of the other options available to meet the employer of record mandate in AB 1682 assumes additional liability, just because of the specific liability protection given to a PA in AB 1682.

The Stanislaus County IHSS Program's loss history goes back over 20 years and there is no instance where a recipient has sued a provider or Stanislaus County for negligent behavior.