

Date of Hearing: June 27, 2018

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

SB 1040 (Dodd) – As Amended June 19, 2018

**SENATE VOTE:** 38-0

**SUBJECT:** In-home supportive services: natural disaster

**SUMMARY:** Establishes the In-Home Supportive Services (IHSS) Emergency Preparedness, Response, and Consumer Safety Act to: clarify the eligibility of IHSS recipients for certain housing-related loans made available for disaster relief; enable flexibility in weekly authorized hours for IHSS recipients in the event of a natural disaster; direct counties to include protocols regarding supportive services for IHSS recipients in their emergency plans; and require the replacement of IHSS providers' paychecks that are lost or damaged due to certain natural disasters. Specifically, **this bill:**

Housing provisions:

- 1) Clarifies that IHSS recipients are among the persons of low and moderate income eligible per current law for, and persons of low income prioritized per current law for, housing funded through the Predevelopment Loan Program, if such funds are made available for the purpose of providing disaster relief in communities subject to a natural disaster, as specified.

Human Services provisions:

- 2) Makes Legislative findings and declarations related to the unique needs of IHSS consumers, their particular vulnerability during natural disasters resulting in the declaration of a state of emergency, and the lack of a comprehensive statewide approach or mandate for addressing IHSS consumers' heightened needs during such disasters, as specified.
- 3) Clarifies that a situation arising out of a natural disaster constitutes an extraordinary circumstance for which, pursuant to current law, a county welfare department may temporarily adjust the authorized weekly hours of an IHSS recipient at the request of the recipient and within the limit of the assessed monthly need for hours of IHSS.
- 4) Requires affected counties, if a natural disaster has resulted in a declared state of emergency, to use a void-and-reissue warrant process for any IHSS provider who lost or had damaged an uncashed payroll warrant (generally referred to as a paycheck) because of the natural disaster and, further, requires a county, when reissuing an uncashed warrant, to ensure that the reissued warrant will be mailed to the provider's current address, as specified.
- 5) Requires a county, including a city and county, to, upon next updating its emergency plan, integrate and require the assessment and provision of supportive services to IHSS recipients, including, but not limited, to, as specified:
  - a) Protocols and authorization for county social workers to make expedited assessments of the needs of current and potential IHSS recipients during a natural disaster;

- b) Protocols to ensure the continued provision of authorized services to IHSS recipients during displacement due to natural disaster; and
- c) Protocols to address any specific and unique needs of IHSS recipients that have not previously been addressed in the county's, or the city and county's, emergency plan, as specified.

**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) Authorizes counties to 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)
- 3) 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 (c))
- 4) Requires a county welfare department to assess each IHSS recipient's continuing monthly need for services and to divide the monthly need for hours of IHSS by 4.33 to establish a recipient's weekly authorized number of hours of IHSS, with certain exceptions, as specified. (WIC 12301.1 (b))
- 5) Permits a county welfare department to, within the limit of the assessed monthly need for hours of IHSS, temporarily adjust a recipient's weekly hours at the request of the recipient to accommodate for unexpected extraordinary circumstances. (WIC 12301.1 (b)(1)(B))
- 6) Defines "natural disaster" to mean a fire, flood, storm, tidal wave, earthquake, terrorism, epidemic, or other similar public calamity that the Governor determines presents a threat to public safety. (HSC 34050.5 (b))
- 7) Empowers the Governor to proclaim a state of emergency in an area affected or likely to be affected when:
  - a) The Governor finds that there is the existence of conditions of disaster or extreme peril to the safety of persons and property within the state which, due to their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single jurisdiction and require the combined forces of a mutual aid region or regions to combat, as specified; and
  - b) Either:
    - i) The Governor is requested to do so by a mayor or chief executive or chairperson of the board of supervisors or county administrative officer, as applicable; or

- ii) The Governor finds that local authority is inadequate to cope with the emergency. (GOV 8625)
- 8) Defines “access and functional needs population” for purposes of provisions of law related to accessibility to emergency information and services as: individuals who have developmental or intellectual disabilities, physical disabilities, chronic conditions, injuries, limited English proficiency or who are non-English speaking, older adults, children, people living in institutionalized settings, or those who are low income, homeless, or transportation disadvantaged, including, but not limited to, those who are dependent on public transit or those who are pregnant. (GOV 8593.3)
- 9) Requires a county, including a city and a county, to, upon next updating its emergency plan, integrate access and functional needs into the plan by addressing, at the least, how the access and functional needs population is served by emergency communications, emergency evacuation, and emergency shelter, as specified. (GOV 8593.3)
- 10) Defines “predevelopment loan” to mean a loan for required expenses, other than administrative and construction, which are incurred by eligible sponsors in the process of, and prior to, securing long-term financing for construction, conversion, preservation, or rehabilitation of assisted housing, and which are recoverable once long-term financing is obtained, and, further, delineates the purposes for which predevelopment loans may be made, as specified, and permits these loan funds to be deposited in banks as compensating balances to establish lines of credit for participating nonprofit corporations. (HSC 50530.5 (b))
- 11) Establishes a Predevelopment Loan Program for purposes of providing interim financing for the Department of Housing and Community Development’s (HCD’s) urban and rural predevelopment programs, as specified. (HSC 50530 – 50532)
- 12) Requires HCD to award predevelopment loan funds for the purpose of providing disaster relief in communities if funds have been made available for that purpose and requires those funds to be used for housing for persons of low and moderate income, with first priority given to funding housing for persons of low income. Further, requires funds appropriated in this manner to be only spent on rehabilitation or reconstruction of housing and related infrastructure that has been damaged as a result of the natural disaster. (HSC 34052, 34054)

**FISCAL EFFECT:** Unknown.

**COMMENTS:**

***Predevelopment Loan Program:*** State law (Health and Safety Code Section 50530.5) defines a “predevelopment loan” to mean a loan for required expenses, other than administrative and construction, which are incurred by eligible sponsors in the process of, and prior to, securing long-term financing for construction, conversion, preservation, or rehabilitation of assisted housing, and which is recoverable once long-term financing is obtained.

The Predevelopment Loan Program, administered by HCD, provides loans to finance the start of low-income housing projects. According to HCD, eligible activities can include, “predevelopment costs of projects to construct, rehabilitate, convert, or preserve assisted housing, including manufactured housing and mobile home parks.” Additionally, HCD states that, “Eligible costs include but are not limited to site control, site acquisition for future low-

income housing development, engineering studies, architectural plans, application fees, legal services, permits, bonding, and site preparation. Priority will be given to developments which are rural, located in the public transit corridors, or which preserve and acquire existing government-assisted rental housing at risk of conversion to market rents.”

Additionally, state law (Health and Safety Code Sections 34052 and 34054) requires HCD to award predevelopment loan funds for the purpose of providing disaster relief in communities if funds have been made available for that purpose, and it requires those funds to be used for housing for low- and moderate-income individuals, with first priority given to funding housing for low-income individuals. State law also requires funds appropriated in this manner to be only spent on rehabilitation or reconstruction of housing and related infrastructure that has been damaged as a result of the natural disaster.

This bill would state that persons who are recipients of in home supportive services who are low-income shall have priority to live in housing crated through the Predevelopment Loan Program.

***In-Home Supportive Services:*** The IHSS program assists eligible low-income individuals in California who are at least 65 years old, living with disabilities, or blind, by providing for services that enable them to remain in their own homes. The program pays care providers to assist with personal care services (such as bathing, toileting, and grooming), domestic and related services (meal preparation, housecleaning, and the like), paramedical services, and protective supervision. As of January, there were 570,838 Californians who received IHSS; 98.5% of these individuals received it as a Medicaid benefit.

The IHSS program is overseen by DSS, and administered at the county level. After applying, applicants are assessed by a county social worker for eligibility and need. If determined eligible, an individual is authorized for certain services and number of monthly hours of care; the authorized monthly hours of care are divided by 4.33 to arrive at a recipient’s weekly authorized number of hours of IHSS. However, certain exceptions exist – for example, upon approved request of a recipient based on unexpected extraordinary circumstances – whereby a county may adjust the authorized weekly hours of a recipient within the limit of the assessed monthly need for hours of IHSS.

IHSS recipients are responsible for selecting, hiring, firing, directing, and supervising their IHSS workers. These responsibilities also include some administrative duties, such as scheduling and signing timesheets; however, the state handles payroll – IHSS provider paychecks are referred to as payroll “warrants.” As of January, there were 485,411 IHSS providers in California; 69% of these providers were relatives and 53% of these providers lived in the same residence as the recipient. Providers must complete an enrollment process that includes providing fingerprint images and submitting to a criminal background check. Prospective IHSS providers are also required to participate in an on-site orientation developed by DSS and the counties prior to receiving payment for services.

***Emergency preparedness and response:*** State law (Government Code Section 8625) empowers the Governor to proclaim a state of emergency in an area affected or likely to be affected when; a) the Governor finds that there is the existence of conditions of disaster or extreme peril to the safety of persons and property within the state which, due to their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single jurisdiction and require the combined forces of a mutual aid region or regions to combat, and b) either the Governor is requested to declare a state of emergency by a certain city or county

officials, or the Governor finds that local authority is inadequate to cope with the emergency. Proclaiming a state of emergency grants the Governor certain powers and enables the availability of response and recovery funding, among other things.

The California Emergency Services Act (Government Code Section 8550 *et seq.*) requires the Governor to coordinate a State Emergency Plan to provide overall statewide authorities and responsibilities and detail the functions and operations of all levels of government during extraordinary emergencies. This plan is required to be in effect in each of the state's political subdivisions; local emergency plans function as extensions of the State Emergency Plan.

*Need for this bill:* Vulnerability to natural disasters has been found to be higher for lower-income households, and the ability for low-income individuals and families to recover from such disasters has been found to be more difficult. A 2007 article in the journal *Ecological Economics* looking at the distribution of impacts of natural disasters across income groups stated that, "A recent review of studies on the relationship between poverty and disasters in the U.S....revealed that socio-economic status is a significant predictor of the physical and the psychological impacts in the pre- and post-disaster stages. According to these studies, the poor are more likely to die, suffer from injuries, have proportionately higher material losses; have more psychological trauma; and face more obstacles during the phases of response, recovery, and reconstruction," and that, "... low-income households and communities are more vulnerable to natural disasters than wealthier ones; they tend to live in more hazardous places, have less protection, and have fewer reserves, insurance, and alternatives. ...Community-level factors, such as urban versus rural setting, infrastructure, medical services, and available social services also affect hazard vulnerability." Not only are IHSS consumers particularly vulnerable during natural disasters due to issues related to having low incomes, but also because of their need for assistance with activities of daily living; this is a population that can face greater barriers to relocation and reduced options for alternative living arrangements in the event of evacuation.

Additionally, recent experiences with the wildfires of 2017 pointed to the need for responsiveness to replacing IHSS provider paychecks lost or damaged due to natural disasters. In October of 2017, the Department of Social Services (DSS) sent a notice to counties acknowledging the department's receipt of reports that some provider checks had been lost or damaged in the fires. DSS established a temporary, expedited process in response, whereby IHSS providers displaced by the fires were able to have their addresses verified and their paychecks voided and reissued in quick turnaround. Upon conclusion of the state of emergency in the fire-affected regions, counties were directed to resume normal procedures.

*Prior legislation:*

*AB 607 (Gloria), Chapter 501, Statutes of 2017*, established the Community Resiliency and Disaster Preparedness Act of 2017 to provide for expanded and improved disaster readiness and response in the California Work Opportunity and Responsibility to Kids (CalWORKs) and CalFresh programs.

*AB 2311 (Brown), Chapter 520, Statutes of 2016*, required each county, including a city and county, to integrate into its emergency plan access and functional needs for individuals who have developmental or intellectual disabilities, physical disabilities, chronic conditions, injuries, limited English proficiency or who are non-English speaking, older adults, children, people living in institutionalized settings, or those who are low income, homeless, or transportation

disadvantaged, including, but not limited to, those who are dependent on public transit or those who are pregnant.

*Double referred:* This bill is double referred. It was heard in the Assembly Committee on Human Services and passed out on a vote of 7-0 on June 12, 2018.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

AARP California

American Federation of State, County and Municipal Employees

The Arc

United Cerebral Palsy California Collaboration

Area Agency on Aging Advisory Council

California Alliance For Retired Americans

California Association of Public Authorities for IHSS

California Commission on Aging

California Foundation for Independent Living Centers

California Long-Term Care Ombudsman Association

Disability Rights California

SEIU California

UDW/AFSCME Local 3930, The Homecare Providers Union

**Opposition** None on file

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