



## AB 1930: IHSS Benefits Advisory Committee

### **What is the problem to be addressed?**

Currently, individuals who provide services through the state's In-Home Supportive Services (IHSS) program to their child or spouse are not allowed to contribute towards social security, Medicare, or state unemployment insurance (UI).

This means that when they retire, if they become disabled, or if they lose their jobs, these hard-working caregivers do not have access to our nation's most important programs for seniors and the uninsured.

This has resulted in terrible economic hardship for tens of thousands of IHSS workers who are at or near retirement age. It also results in indirect costs to taxpayers as hard-working seniors are forced into poverty and reliance on state public assistance programs.

### **Background**

The Federal Insurance Contribution Act (FICA) requires employers to withhold taxes from the wages an individual receives for employment. The employer matches the amount of these withholdings, which together are used to fund the employee's future Social Security and Medicare benefits. The Internal Revenue Code defines "employment" as any service an employee performs for an employer. The IRC contains an exception to this definition for family employment. The "family employment exception" applies to service in a private home "in the employ of an individual's son, daughter, or spouse". In those cases, according to the IRS, no actual employment relationship exists.

As a result, the California Department of Social Services has determined that wages paid through IHSS to parent or spouse providers fall under the "family employment exception" and therefore are

exempt from employment taxes such as FICA and state UI.

There are approximately 400,000 providers in the IHSS program. According to the Department of Social Services in February 2016, it is estimated that roughly 20% of these providers, or 80,000 people, are the spouse or parent of the IHSS recipient.

### **What will this bill specifically do?**

Assembly Bill 1930 would simply establish an advisory committee to study how the exclusion from certain employment-based supports and protections, such as Social Security, impacts the economic security of individuals who provide these critical services and their communities.

This committee would include policy experts from the field and the administration as well as those directly impacted by the exclusion. AB 1930 would require the committee to provide a peer-reviewed report to the Legislature by January 1, 2018 with a summary of the findings and recommendations on steps the state can take to ensure that all IHSS providers who provide supportive services to a spouse or child have access to all employment-based supports and protections, including federal Social Security benefits.

### **Staff Contact**

Sarah Couch  
(916) 319-2036  
[Sarah.Couch@asm.ca.gov](mailto:Sarah.Couch@asm.ca.gov)

Kristina Bas Hamilton  
UDW/AFSCME Local 3930  
(916) 554-0931  
[kbas@udwa.org](mailto:kbas@udwa.org)



Assemblyman Tom Lackey, 36<sup>th</sup> District

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### Support

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California Health Advocates

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