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February 26, 2018

Findings and Recommendations Pursuant to California Government Code 3505.4 and 3505.5
PERB Case # SA-IM-174-M
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In the Matter of an Impasse Between

Lassen County Public Authority

And

SEIU Local 2015

****
APPEARANCES:

For the Public Authority:	Jack Hughes Liebert Cassidy Whitmore 400 Capitol Mall, Suite 1260 Sacramento, CA 95814
For the Union:	Laurel R. Webb General Counsel, SEIU Local 2015 2910 Beverly Blvd. Los Angeles, CA 90057 Linelle S. Mogado Staff Attorney, SEIU Local 2015 2910 Beverly Blvd. Los Angeles, CA 90057

FACTFINDING PANEL:

Appointed by the Public Authority:	Richard Egan, County Administrative Officer, Lassen County
Appointed by the Union:	David Werlin, Bargaining Director, SEIU Local 2015
Neutral Chairperson:	Nancy Hutt, Arbitrator and Mediator

PROCEDURAL BACKGROUND

On December 19, 2017, the Public Employment Relations Board (PERB) notified me that the Lassen County Public Authority and SEIU Local 2015 selected me to serve as the Neutral Chair of the Factfinding Panel, pursuant to the Meyers-Milias-Brown Act. The panel held a hearing on January 3 and 4, 2018 in Susanville, CA. At this hearing the parties presented testimony and evidence in support of their respective positions, to the panel. A prehearing conference call was held on December 19, 2017 to discuss procedural issues.

RELEVANT STATUTORY PROVISIONS

This factfinding is governed by recent amendments to the Meyers-Milias-Brown Act. The sections of the amendments that are pertinent to this proceeding are as follows:

> 3505.4. Unable to effect settlement within 30 days of appointment; request for submission to factfinding panel; members; chairperson; powers; criteria for findings and recommendations
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> (a) The employee organization may request that the parties' differences be submitted to a factfinding panel not sooner than 30 days, but not more than 45 days, following the appointment or selection of a mediator pursuant to the parties' agreement to mediate or a mediation process required by a public agency's local rules. If the dispute was not submitted to mediation, an employee organization may request that the parties' differences be submitted to a factfinding panel not later than 30 days following the date that either party provided the other with a written notice of a declaration of impasse. Within five days after receipt of the written request, each party shall select a person to serve as its member of the factfinding panel. The Public Employment Relations Board shall, within five days after the selection of panel members by the parties, select a chairperson of the factfinding panel.
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> (b) Within five days after the board selects a chairperson of the factfinding panel, the parties may mutually agree upon a person to serve as chairperson in lieu of the person selected by the board.
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> (c) The panel shall, within 10 days after its appointment, meet with the parties or their representatives, either jointly or separately, and may make inquiries and

investigations, hold hearings, and take any other steps it deems appropriate. For the purpose of the hearings, investigations, and inquiries, the panel shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence. Any state agency, as defined in Section 11000, the California State University, or any political subdivision of the state, including any board of education, shall furnish the panel, upon its request, with all records, papers, and information in their possession relating to any matter under investigation by or in issue before the panel.

(d) In arriving at their findings and recommendations, the factfinders shall consider, weigh, and be guided by all the following criteria:
(1) State and federal laws that are applicable to the employer.
(2) Local rules, regulations, or ordinances.
(3) Stipulations of the parties.
(4) The interests and welfare of the public and the financial ability of the public agency.
(5) Comparison of the wages, hours, and conditions of employment of the employees involved in the factfinding proceeding with the wages, hours, and conditions of employment of other employees performing similar services in comparable public agencies.
(6) The consumer price index for goods and services, commonly known as the cost of living.
(7) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays, and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
(8) Any other facts, not confined to those specified in paragraphs (1) to (7), inclusive, which are normally or traditionally taken into consideration in making the findings and recommendations.
(e) The procedural right of an employee organization to request a factfinding panel cannot be expressly or voluntarily waived.

3505.5. Dispute not settled within 30 days after appointment of factfinding panel or upon agreement by parties; panel to make advisory findings of fact and recommended terms of settlement; costs; exemptions

(a) If the dispute is not settled within 30 days after the appointment of the factfinding panel, or, upon agreement by both parties within a longer period, the panel shall make findings of fact and recommend terms of settlement, which shall be advisory only. The factfinders shall submit, in writing, any findings of fact and recommended terms of settlement to the parties before they are made available to the public. The public agency shall make these findings and recommendations publicly available within 10 days after their receipt.

(b) The costs for the services of the panel chairperson selected by the board, including per diem fees, if any, and actual and necessary travel and subsistence expenses, shall be equally divided between the parties.

(c) The costs for the services of the panel chairperson agreed upon by the parties shall be equally divided between the parties, and shall include per diem fees, if any, and actual and necessary travel and subsistence expenses. The per diem fees shall not exceed the per diem fees stated on the chairperson's résumé on file with the board. The chairperson's bill showing the amount payable by the parties shall accompany his or her final report to the parties and the board. The chairperson may submit interim bills to the parties in the course of the proceedings, and copies of the interim bills shall also be sent to the board. The parties shall make payment directly to the chairperson.

(d) Any other mutually incurred costs shall be borne equally by the public agency and the employee organization. Any separately incurred costs for the panel member selected by each party shall be borne by that party.

(e) A charter city, charter county, or charter city and county with a charter that has a procedure that applies if an impasse has been reached between the public agency and a bargaining unit, and the procedure includes, at a minimum, a process for binding arbitration, is exempt from the requirements of this section and Section 3505,4 with regard to its negotiations with a bargaining unit to which the impasse procedure applies.

BACKGROUND AND RELEVANT FACTS AND FINDINGS

The County of Lassen covers approximately 4,700 square miles with a population of 35,000, which includes 8,000 inmates. The City of Susanville is the County seat. The County is a largely rural County with a dispersed population. SEIU Local 2015 represents the County's approximately 141 In-Home Supportive Services ("IHSS") home care providers ("providers").

This matter involves the In-Home Supportive Services program ("IHSS") of Lassen County. SEIU Local 2015 ("Union") and Lassen County Public Authority ("County") agreed to ground rules regarding negotiations for the first Memorandum of Understanding (MOU) on April 11, 2016. This commenced a second round of negotiations for a first contract, after earlier negotiations reached impasse in 2015.

The Lassen County's In-Home Supportive Services Program, ("IHSS") is considered an alternative to out-of-home care. The program allows MediCal-eligible individuals with disabling conditions (referred to as "consumers") to safely remain in their homes as an alternative to out-of-home care and to increase their quality of life. The IHSS program helps pay provider services for the elderly over 65 years, disabled and/or blind, such as: housework, shopping, meal preparation, personal care services such as bowel and bladder care, bathing, dressing, transportation, and supervision for the mentally impaired. The projected population of people over 65 years and older is growing substantially. Between 2010 and 2015 there was a 5% increase in the older population and by 2020 the increase will rise again by 4%. Lassen County's population is expected to rise by 2,500 residents over 65 and shrink by 3,800 residents under 65. As the population of those over 65 years of age increases, the County will have a greater financial responsibility.

The Union filed a request for factfinding with the Public Employment Relations Board ("PERB") pursuant to Section 3505.4 of the Meyers-Millias-Brown Act ("MMBA") and PERB Regulation 32802. Prior to the factfinding request, the parties had negotiated and reached agreement on all but two (2) issues: wages and term. An impasse was declared and the two parties failed to resolve the issues.

After the hearing was completed, the Factfinding Panel members representing the Union and the County along with the factfinder held two telephonic conferences. The panelists were not in agreement on the outstanding wage issue. Accordingly, the recommendations in this Report are those of the Impartial Chair unless noted otherwise.

IMPASSE ISSUE

The parties presented the following issue to the Factfinding Panel:

WAGES:

The Union proposes that the County increase the wage from the current wage

of $11.00 per hour[1] to $11.50 per hour.

> The County proposes a $ .10 per hour wage increase for the duration of the contract.
>
> Both parties propose that the increases take the form of a Wage Supplement that remains above minimum wage.
>
> Neither party made a presentation regarding the term of the agreement.

Based on the statute, the factfinding panel is required to consider, weigh, and be guided by the criteria stated above in formulating its findings and recommendations.

RELEVANT FACTS AND FINDINGS

At the start of the factfinding, the Union offered the testimony of Sarah Thomason, a Research Data Analyst at the UC Berkeley Labor Center, who co-authored the paper "California's Homecare Crisis: Raising Wages is Key to the Solution." Ms. Thomason explained the conclusions reached through her extensive research of market labor data. She found that constant low wages are creating a crisis within the homecare industry, leading to high turnover of providers and worker shortages. Family providers make up approximately 64% of homecare workers, who are primarily women of color that are devalued and live on the poverty line. Ms. Thomason explained the potential dangers to providers, finding high injury rates due to the physical and emotional nature of the work. The low wages increase the reliance of providers on public assistance. Raising wages of IHSS workers represents a solution to healthcare industry shortages as well as a "public policy that reflects the value and dignity of caregivers in California." Information specific to a shortage of homecare providers in Lassen County was not offered.

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[1] The figure of $11.00 is subsequent to the $.50 minimum wage increase in January 2018.

California chose to participate in the Community First Choice Option, which is part of the Affordable Care Act. The Act provides additional federal funding if a state chooses the Community First Choice Option. Under this option, the federal government covers approximately 56% of the total cost of the program. The State of California pays approximately 65% of the non-federal share of the cost and Lassen County pays approximately 35% of non-federal share of the IHSS cost. The state calculates the County's annual cost of the program, which is referred to as the Maintenance of Effort (MOE). The MOE for Lassen County is $378,672.00. Presently the County pays its MOE with 3% funds from its General Fund and 97% funds from 1991 realignment funds.

State law requires Lassen County to pay IHSS providers at least the minimum wage. On January 1, 2018 the minimum wage was increased by $ .50 per hour, which results in the providers receiving $11.00 per hour. On January 1, 2019 the providers will receive a $1.00 per hour minimum wage increase. By January 1, 2022, the minimum wage will increase to $15.00 per hour. The County asserts the minimum wage increase over the next four (4) years will provide a living wage for the in-home care providers. The Union proposes a $.50 hourly increase that would "float" above the minimum wage, in the form of a "wage supplement" and the state and federal governments would continue to pay the increases associated with the minimum wage. As part of the State's 2017-2018 Budget, the State modified the Welfare and Institutions Code to explicitly allow counties to do this, at s. 12306.16(d)(6)-(7). The cost to Lassen County of this wage supplement would be approximately $17,700 annually. The Union contends the wage supplement to IHSS providers would not require an adjustment to the county's budget for IHSS and is affordable from the General Reserve of $1,523,401. The evidence supports that wage supplement would increase Lassen County's MOE one time, with subsequent inflation adjustments only.

The Union believes the County has the ability to pay. The County does not deny funds are available, but chooses to use the funds on more pressing matters such as foster care, adoptions, public safety, new positions that were eliminated due to budget constraints and correctional officers for understaffed prisons. Because of a decrease in

revenues the County has reduced its General Fund staffing positions. The staffing reductions have led to reduced hours and service levels for many basic public services. As an example, Lassen County eliminated six positions in the Sheriff's department due to budget restraints. Presently, the County does not have 24 hours a day of coverage by law enforcement employees in certain portions of the county. The County prisons do not have the mandated number of correctional officers per the prison population. This lack of coverage presents unsafe conditions and legal issues for Lassen County.

The County offered evidence in response to the Union's assertion there are insufficient providers, and based on the low wage and geographical span, these providers are difficult to recruit. The data shows 173 cases are authorized for care services. Out of these cases, Paramedical Services delivered by IHSS providers are authorized for 16 consumers. Seventeen of the 173 consumers have not been assigned providers, possibly due to the inaction of the consumer. Based on the County data, the County states that 100% of consumers are served by IHSS and contends there is no shortage of providers.

Lassen County currently has a General Fund beginning balance of $2,482,398 million for the 2018 budget and $1,523,401 in the General Reserve. In 2014 the General Fund beginning balance was $952,160 with approximately $3,174,766 in the General Reserve beginning balance, which is the same as the 2014-2017 years. Since 2014 the General Fund Revenue has remained relatively the same until the 2018 budget year, which dropped $2,000,000 to $16,808,716. The County has experienced a pattern of decline and a beginning resurgence. The General Fund Revenues largely rely on property taxes, other forms of taxation and other governmental agency funds. Most all of these sources of revenue declined due to fewer residents and fewer home purchases, which impacts the tax sources for the budget. Therefore, the County reserves have been utilized to make up the shortfall. However in the 2017-2018 fiscal year, reserves were not required to balance the budget.

The Union compares the 2016 wages for local Skilled Nursing Facility ("SNF") employees, as well as Lassen County employees with "similar responsibility", to the

wages of present IHSS providers. Average hourly wages at local SNFs are: for Nurse Assistants/Aides, $15.68; Housekeeping, $12.20; and laundry and linen employees, $13.21. The Union compares the IHSS providers with a current hourly wage of $11.00 to the three (3) position wages above. Based on County accounting and reporting documents, the grounds worker and cook coordinator in Lassen County have a minimum annual salary of approximately $30,500. As County employees, the total compensation package includes multiple benefits. The duties and responsibilities of an IHSS provider can be demanding, challenging and difficult, depending on the consumer's needs. The IHSS providers, as suggested by the Union, have poor living and working conditions and will continue to live at the poverty level without a wage increase.

According to testimony, the IHSS Wages by County as of January 2018, as well as information about health benefits for IHSS providers, are as follows. Of the sixteen (16) nearby counties similar to Lassen County the below wages are paid to IHSS providers:

County Providers	Wage	Health Benefit
Butte	$11.00	yes
Colusa	$11.00	
Humboldt	$11.00	
Kings County	$11.00	
Lake County	$11.00	
Madera	$11.00	
Mendocino	$11.00	
Modoc	$11.00	
Plumas	$11.00	yes
Placer	$11.00	yes
Shasta	$11.50	
Sierra	$11.00	yes
Tehama	$11.00	
Trinity	$11.50	
Tulare	$11.00	
Yolo	$11.02	yes
Yuba	$11.00	yes

There is little doubt that the comparable hourly wage is $11.00. Six (6) of these seventeen (17) counties provide a healthcare benefit. The Shasta and Trinity counties increased wages by $.50, in the form of a wage supplement, but provide no benefits.

Eight (8) of these seventeen (17) counties receive a higher wage or benefit than Lassen County providers. The IHSS workers in Lassen receive no benefits, such as healthcare, retirement or pension. Effective July 1, 2018 a provider will receive one annual day of leave, but is not compensated for gasoline costs or wear and tear on their personal vehicle for driving consumers, which is part of their work duties.

The Union offered the Lassen Cost of Living as published by the California Budget and Policy Center. For a single adult the monthly cost of living for only essentials is $1,446, without taxes. To cover basic living expenses the Policy Center determined a single adult needs $19,730 and the average annual income of an IHSS provider is $11,718. The Union's evidence supports its assertion that the wage is insufficient to support basic necessities. If Lassen County provides the wage supplement of $.50, the County share is $17,703, and will be added to its MOE. After the first year, there would be no new additional cost to the County, except for an annual inflation factor.[2]

The Panel received an enormous amount of data and information during the presentation by the Union and the County. Lassen is under economic pressure with challenging strains on available resources and IHSS providers live below the poverty level.

RECOMMENDATIONS

The Neutral Factfinder chosen by the parties believes that the statute under which this factfinding takes place is best viewed as an extension of the collective bargaining process. The best outcome of this factfinding process would, of course, be a negotiated agreement between the parties with respect to wages. However, since the parties were unable to do so, in this factfinding the Neutral Panel member is recommending a wage supplement of $.50 an hour.

[2] The $17,703 is based on 141 IHSS providers.

This recommendation attempts to balance the needs of the County, the public, and the employees, based on the criteria listed in the statute. While the Union has made a reasonable argument that the current wage of their members is on the low end of the wage spectrum (minimum wage), it is also true that this County has limited resources for "urgent needs." While the Union has presented evidence that the County can afford their proposal to adopt the $.50, it has not presented sufficient evidence of a recruitment and retention problem that would necessitate the adoption of their wage proposal if this were the main consideration. However, reviewing the budgetary and financial data along with the working conditions of IHSS workers, the providers received no wage increases from the County or any benefits or allowance for vehicle maintenance/gas, to their financial detriment.

Lassen County has the ability to pay a $.50 wage increase, but certainly not enough revenue to cover the IHSS program cost, the remaining services and the critical vacant positions. The Union has persuaded me that IHSS caregivers do not make an adequate living to cover everyday expenses and that the wage supplement would increase their standard of living, while only costing the County a minimum increase. The difference between the Union's proposal and the County's proposal is $.40.

Based upon this record and these facts, I recommend that the Union proposal be adopted. The wage supplement of $.50 should be implemented. This is a fair and equitable proposal.

As neither party made a presentation regarding the term of agreement, I recommend a two-year term of agreement, to expire December 31, 2019.

The Neutral Member of this Panel agrees that these recommendations are in accord with California Government Code Sections 3505.4 and 3505.5, and endorses this recommendation.

Dated: February 26, 2018

Nancy Hutt: Neutral Chair Factfinding Panel
I concur with these recommendations. Nancy Hutt

Union Panel Member: David Werlin
I concur with this recommendation 

Public Authority Panel Member: Richard Egan
I dissent with these recommendations 

DISSENT:

I, Richard Egan, on behalf of the IHSS Public Authority of Lassen County, oppose the Advisory Report of the Fact-finding Panel in the matter of the labor negotiation impasse between the IHSS Public Authority of County of Lassen and SEIU Local 2015. The recommendation in the report is based on the assumption that the IHSS program is designed to provide career-based work hours, wages and benefits when that is not the case. Furthermore, the recommendation fails to account for more pressing public needs for the revenue that would be spent to fund the Union's proposed wage supplement.

I. THE IHSS PROGRAM DOES NOT PROVIDE CAREER-BASED COMPENSATION FOR IHSS PROVIDERS

The Neutral Chairperson recommends that the County accept the Union's $0.50 per hour wage supplement on the ground that "IHSS caregivers do not make an adequate living to cover everyday expenses." The record includes *no* information supporting that conclusion in Lassen County.

The IHSS program provides limited hours of paid time per month to care for a person needing in-home care, often a family member. Neither the amount of authorized IHSS hours nor the hourly IHSS pay-level replace primary sources of income for households with IHSS needs. According to the Union, IHSS providers in Lassen County are assigned an average of 93 hours per month for IHSS activities or 1,116 hours per year. This is well-below the 2,080 regularly scheduled hours worked by public servants each year. Even the wage supplement sought by the Union would not enable a person to make a living as an IHSS Provider because there are not enough authorized care hours for a person to make a living in that capacity.

Regrettably it appears that the Neutral Chairperson has been influenced by the Union's misleading presentation. The Union presented testimony regarding IHSS Providers' earnings and expenses. The testimony appears to have been intended by the Union to create the impression that IHSS is a Provider's sole source of income. On cross-examination, we learned that is not the case and that in-fact the household used by the Union as an example has another primary source of income. This fact-pattern is regularly repeated in the IHSS program.

Diverting public revenue to provide the wage supplement sought by the Union is not necessary to serve the singular goal cited by the Neutral Chairperson in support of her recommendation.

II. THE UNION SEEKS THE WAGE SUPPLEMENT TO MAINTAIN ITS OWN RELEVANCE AND FUNDING

The wage supplement proposed by the Union does not solve the alleged problem cited by the Union. According to the Union's data cited in the Neutral Chairperson's recommendation, a Californian needs $19,730 to cover basic living expenses and IHSS Providers earn on average $11,718 from the program. A $0.50 per hour supplement would only increase IHSS earnings by an average of $558 per year, still below the figure cited in the Union's own evidence. Something else must be motivating the Union's proposal.

Could it be that the Union's position in the negotiation has more to do with its own interests than those of IHSS Providers? It is important to remember that in the public sector there are three parties to any labor negotiation: the public entity, the workforce, and the public employee union. A union is an entity independent of the workforce with its own needs and wants.

Since most progress in bargaining is made in small, incremental steps, the County expected that the Union would accept its proposal for $0.10 per hour wage supplement as a means to establish the wage supplement in the labor agreement. The Union would then predictably seek to increase that supplement in future negotiations. Given the fact that the bulk of Counties in California are paying the same hourly wage as Lassen County, this would make sense if the Union's focus was primarily on the workforce.

However, California minimum wage law has now been legislated to increase at rates that rocket well-ahead of the IHSS pay rates previously negotiated around most of the State. In years' past, unions such as SEIU Local 2015 would seek perhaps $0.25 per year wage increases for IHSS and they may have accepted less. California now increases minimum wages by between $0.50 and $1.00 per year. This raises the question of why an IHSS Provider would want to pay union dues when the State is already increasing wages around 10% per year. The minimum wage increases threaten the Union's primary reason for being.

The County assesses that the Union seeks its proposed wage supplement so that it can demonstrate a "victory" to the IHSS Providers in the bargaining process and ensure that those providers have the means and motivation to pay the Union's dues. SEIU's dues range from $15.50 to $45.00 per month. At an average of 93 hours worked per month, the $0.50 per hour wage supplement generates an additional $46.50 per month for IHSS Providers. The County does not believe that it is a coincidence that this amount just covers the maximum monthly Union dues.

The Union made three arguments to justify the $0.50 per hour wage supplement, none of which were actually valid. The County believes that this shows that Union is not revealing its primary motivation in this labor negotiation. First, the Union presented an "expert" witness from a think-tank associated with U.C. Berkeley who testified about a study she conducted regarding IHSS Providers in California. She concluded that there *might* be an IHSS Provider shortage *in the future* unless Provider wages increase. Furthermore, all of her data and predictions apply to *large, urban counties*. On cross-examination, the County demonstrated that the expert's study included no Lassen County data and had nothing to do with California rural counties. The County went on to prove that there is no IHSS Provider shortage in Lassen County and that there are currently IHSS Providers assigned to or available for every person in the County eligible for IHSS

services. The Neutral Chairperson appears to have rejected this misleading argument from the Union.

Second, the Union presented as a witness one of its own employees who has impressive academic credentials but no apparent real-world experience constructing or interpreting public agencies budgets. This witness and the Union's team giggled when she explained that she had prepared a report – submitted by the Union to the Neutral Chairperson as evidence – designed to justify the Union's wage supplement proposal. In other words, the report is manufactured evidence which started with its conclusion (that the County can and should agree to the Union's proposal) and then attempted to build "facts" to support that conclusion. To correct the record, I subsequently explained to the fact finding panel the County's budget, fiscal projections, and numerous underfunded and unfunded projects and employment vacancies. The Neutral Chairperson does not appear to have been persuaded by this second misleading argument by the Union.

Third, the Union presented the IHSS Provider discussed above in an effort to create the impression that IHSS earnings are needed to cover a household's entire budget. Although this is not true either in the case of the IHSS Provider who was used as a witness by the Union or as a general rule in the IHSS program, the Neutral Chairperson bases her recommendation around this flawed concept.

The Neutral Chairperson can be excused from her conclusion to some extend by virtue of the fact that she appeared to have little or no prior experience with the IHSS program or labor negotiations. It appears that the Neutral Chairperson's specialty is the adjudication of labor agreement interpretation grievances and employee disciplinary appeals. The obvious flaws in her application of the record to the circumstances in this labor negotiation therefore undermine the credibility of her recommendation.

III. THE NEUTRAL CHAIRPERSON HERSELF NOTED THAT THE UNION'S WAGE SUPPLEMENT PROPOSAL IS EXCESSIVE

Oddly, the Neutral Chairperson provided two versions of her draft report to the Parties for their review and consideration. The first version recommends that the Parties adopt neither the County's proposed $0.10 per hour wage supplement nor the Union's proposed $0.50 per hour wage supplement. Instead, the Neutral Chairperson recommended that the Parties split the difference and adopt a $0.30 per hour wage supplement. She wrote,

> "This recommendation attempts to balance the needs of the County, the public, and the employees, based on the criteria listed in the statute. While the Union has made a reasonable argument that the current wage of their members is on the low end of the wage spectrum (minimum wage), it is also true that this County has limited resources for "urgent needs." While the Union has presented evidence that the County can afford their proposal to adopt the $.50, it has not presented sufficient evidence of a recruitment and retention problem that would necessitate the adoption of their complete wage proposal."

It is the County's impression that the Neutral Chairperson later became misled by the notion that IHSS earnings need to support a household. She then rescinded her initial draft and changed her recommendation to support the Union's wage supplement proposal. Since neither IHSS working hours nor wages are designed to serve as primary

income for a household, the Neutral Chairperson appears to have been sidetracked by the Union's misleading argument.

IV. THE UNION'S PROPOSED WAGE SUPPLEMENT COMBINED WITH THE AUTOMATIC INCREASES IN THE MINIMUM WAGE WOULD PROVIDE WAGE INCREASES FOR IHSS PROVIDERS SEVERAL TIMES GREATER THAN ANY COUNTY PUBLIC SERVANTS, INCLUDING PUBLIC SAFETY EMPLOYEES

Increases in the minimum wage are providing IHSS Providers with approximately 10% wage growth each year for the next several years. These increases are much higher than increases in the cost of living which for the last several years has floated around 3% per year. County employees have not had wage increases anywhere near 5% over the last several years and that trend is likely to continue. Adding another $0.50 per hour on-top of what are already going to be substantial percentage increases for IHSS Providers would be highly disproportionate to wage and other expenditure increases that the County will be able to make in the coming years for the entire rest of the County. The County does not believe it makes sense to provide such high percentage increases for the IHSS function when it would not be able to do anything even remotely similar for its workforce, not to mention the fact that many County positions remain vacant due to a total lack of funding.

V. THE NEUTRAL CHAIRPERSON APPEARS TO MISTAKENLY BELIEVE THAT THE UNION'S WAGE SUPPLEMENT WOULD ONLY INCUR A ONE-TIME COST TO THE COUNTY

The Neutral Chairperson appears to be under the impression that the wage supplement sought by the Union would only incur a one-time expense to the County. She wrote, "After the first year, there would be no additional cost to the County." This sentence might lead one to believe that the costs of the wage supplement would only be incurred in the first year of a new labor agreement. That is not true. If the County implements the $0.50 per hour wage supplement sought by the Union – apparently to cover Union dues for the IHSS Providers – that will become a permanent increase that will have to be funded for as many years as that wage supplement remains in-place. Since the Union has proposed that the wage supplement be open-ended, the County must assume that the cost would be permanent and recurring each and every fiscal year.

Furthermore, the cost of the wage supplement is likely to grow over time. Each time the Union negotiates a new labor agreement with the County, it will have a strong motivation to secure a new "victory" for the IHSS Providers to keep them motivated to be part of a unionized, dues-paying group. The Union will inevitably propose something beyond the $0.50 per hour supplement they seek here and they will again have a strong interest to reach impasse in the negotiation if the County does not agree. That would set the table for yet another costly fact finding process in which another outside third-party with no prior experience about the County or its IHSS function would make a recommendation about how the Board of Supervisors should spend general fund revenues.

VI. THE COUNTY HAS DETERMINED THAT THE REVENUES NECESSARY TO FUND THE UNION'S PROPOSED WAGE SUPPLEMENT WOULD BE BETTER INVESTED IN MANY OTHER MANNERS

Increasing IHSS Providers' income and their standard of living would be a perfectly acceptable, ethical, and appealing use of Lassen County General Fund Revenues. However, the County has a finite general fund that its Board of Supervisors must carefully allocate each year. There are many other known staffing, service, and infrastructure needs that would also be acceptable, ethical, and appealing to fund. But there is not enough money to fund everything.

The key question that the Board of Supervisors must address is whether spending additional money on the IHSS program is going to increase the level of service enjoyed by the community compared with alternative uses for that revenue. This is where the Union's proposal fails.

Increasing the cost of the IHSS labor function will not increase the amount of IHSS service provided to those who need IHSS care. IHSS wage levels do not determine how much care those in-need receive. Instead, the level of care is determined by the number of IHSS care hours that each IHSS care recipient is authorized. This authorization has nothing to do with the hourly wage of the care provider. Hours are determined on a case-by-case basis pursuant to established guidelines that focus exclusively on the needs of the care recipient.

In contrast, the County can spend the money that would be needed to fund the Union's wage supplement to help pay for any of a wide variety of infrastructure programs, to help pay to restore a vacant public safety or other public servant position that has no funding or to increase the level of service in any of the wide variety of other important programs operated by Lassen County for the benefit of the community. These are hard choices. Those who would benefit from them do not have an opportunity to tell their stories to the fact finding panel as the IHSS Provider did and therefore those voices are silent in the labor negotiation impasse fact finding process.

Fortunately, the Board of Supervisors has that broader insight into the County's unfunded and underfunded needs. The Board can see beyond the narrow focus of this proceeding and make spending decisions that will provide the greatest level of public service to the Lassen County community.

For these reasons, I dissent from the Neutral Chairperson's recommendation.

Richard Egan: Fact-finding panelist for the IHSS Public Authority of Lassen County

CONCURRENCE:

I, David Werlin, on behalf of SEIU Local 2015, concur with the Neutral Chairperson's Findings and Recommendations.

I am writing this concurrence to address areas of particular concern in the dissent by the Public Authority Panelist.

In the dissent, the panelist claims, with no evidence, that "The IHSS program does not provide career-based compensation for IHSS providers." This assertion is based upon the fact that the average provider hours in Lassen are 93 per month, or less than a typical, full-time amount of 2080 per year, the equivalent of 173 hours per month. This is a misunderstanding of how averages work. As the panelist is aware, providers may work up to 283 hours per month, far more than typical full-time hours of 173 per month. The only evidence with regard to other employment came from the witness who pointed out that despite not having "full time" hours in the IHSS program, the nature of her care responsibilities made it impossible to work a second job.

I will not address the panelist's position that the union seeks the wage supplement based on its own self-interests rather than as a means to bring Lassen providers out of poverty, other than to say, that this position, like much of the dissent, is not based on anything other than the personal opinion and musings of the panelist, and that it is mistaken.

In the dissent's section III, the panelist attempts to bolster his position that the Union's proposal is excessive by relying upon an early draft Findings and Recommendations sent, in error, by the Neutral Chairperson. It is troubling that the panelist would use a draft - that was not intended to be shared even with him, never mind the public, and which contained obvious errors that were explained by the Neutral Chairperson - to draw erroneous conclusions regarding her thinking and to mischaracterize the Findings and Recommendations.

The panelist further misreads the majority finding to claim that the chairperson "mistakenly believe[s]" that the supplement is a one-time only cost to the county. However, the statement actually made in the finding, was that the "wage supplement would increase Lassen County's MOE one time, with subsequent inflation adjustments only." This reflects an understanding that the MOE would be adjusted to reflect the County's share of the supplement just once (and permanently), and that the inflation factor applied to the MOE in the future would apply to the full adjusted amount.

The Neutral Chairperson's conclusion and the majority finding is indeed supported by the evidentiary record, which included testimony from three Union witnesses, including an IHSS provider. The Public Authority panelist's efforts to mislead on this point and the others enumerated here merit close scrutiny.

David Werlin: Fact-finding panelist for SEIU Local 2015