



# First of the Month

May 2011

CDSA CONFIDENTIAL

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Retroactive Cut  
Lawsuit

CDSA Board Election

Federal Wage-Hour  
Law Webinar

## Quick Links

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## CDSA Calendar

May 3

Capitol Caucus  
InAlliance  
10:00 am-Noon

May 5

CARI & Business  
Services Committee  
Teleconference  
10:00-11:00 am

May 6

Central Coast Caucus  
Andersen's, Beullton  
9:00-11:00 am

May 10

PR Committee  
Teleconference  
10:00-11:00 am

Inland Empire Caucus  
VIP

10:00 am-Noon

Upstate Caucus

North Valley Services,  
Red Bluff  
10:00 am-Noon

## The News

### Legislation Update

CDSA has a full plate in terms of legislation this year. We are now in SUPPORT of five bills, OPPOSE eight bills and are WATCHING another 12 bills. (Try spinning that many plates!) We were at the April 13 Assembly Labor & Employment Committee hearing in force to oppose AB 889, AB 350 and AB 508, all sponsored and supported by various labor unions. Thank you to everyone who came out to testify against these bills!

First up (and responsible for the largest showing in the room) was **AB 889 (Ammiano)**. This bill intends to specially regulate the wages, hours, and working conditions of domestic work employees. Legislators voting for the bill indicated they expect the author to address concerns raised by testimony in opposition to the bill. Our coalition will be meeting with the bill's author to discuss amendments; we're hoping that those amendments will simply exempt all third party employers from the content of the bill.

Fewer people testified against **AB 350 (Solorio)** and **AB 508 (Swanson)**. AB 350 would require you, as a new contractor for janitorial, food service, window washing, and landscaping services to hire the workers of the previous contractor rather than bringing your own employees (people with disabilities) onto the job.

AB 508 is similar to AB 350 in that it takes away a bid preference for any organization seeking a recycling contract that does not agree to hire the workers with the previous contract. Both bills address areas of employment common to people with developmental disabilities and would significantly limit employment opportunities for the people we serve.

We fared a bit better in the Assembly Health Committee on April 26 with **AB 171 (Beall)** getting passed by the committee. AB 171 would require health insurance plans to provide coverage for the screening, diagnosis, and treatment of autism spectrum disorders. We are also supporting **SB 166 (Steinberg)** a similar bill that will require health insurers to provide coverage for behavioral intervention therapy for autism.

Rounding out our summary of recent legislative activity is the decision to move **AB 1244 (Chesbro)** from WATCH to OPPOSE. The bill has seen significant amendments that make it more about organizing workers than implementing the self-determination program (as its title would lead you to believe). The bill's major issues are:

- More than half of the bill addresses the staff who will work in

**May 11-12**  
Board Retreat  
Project Independence  
Costa Mesa

- the program and their collective bargaining rights.
- It lacks methodology for actual individual budget determination.
- It requires a single, statewide contract for financial management support of self-determination participants.

**May 17**  
Membership  
Committee  
Teleconference  
2:00-3:00 pm

To learn more about these bills and others on our watch list, [click here](#).

**May 18**  
Caucus Steering  
Committee  
Teleconference  
2:00-3:00 pm

### **DDS Stakeholder Process Update**

We are a few steps closer to seeing how DDS proposes to save \$174 million via "best practices," and more importantly, just days away from our opportunities to weigh in on their proposals at the DDS Stakeholder forums. The forums have been scheduled:

**May 19**  
Public Policy  
Committee  
Teleconference  
3:00-4:30 pm

- Los Angeles on May 5
- Sacramento on May 6
- Oakland on May 9

Written comments will be accepted until May 9.

**May 25**  
Central Valley Caucus  
ABLE Industries  
10:00 am-Noon

Feedback from the public forums is supposed to be incorporated into DDS's final proposal, which is due to the Legislature by May 15. The "best practices" will not become effective until they are adopted by the legislature. There have been indications that the Legislature will also call for a public review process on DDS's findings.

**May 26**  
Bay Area Caucus  
Contra Costa Arc  
10:00 am-Noon

The draft proposals have not been released yet. As soon as they are, we will identify the main messages and talking points you can use to prepare testimony at one of the public forums or to submit in writing.

**May 30**  
Memorial Day  
CDSA Office Closed

### **The Rest of the Budget...**

**June 7**  
PR Committee  
Teleconference  
10:00-11:00 am

CDSA continues to advocate for maximizing federal participation as an alternative to the deep cuts faced by the community.

**June 14**  
Inland Empire Caucus  
OPARC  
10:00 am-Noon

The Governor will release a revised budget proposal in May. There is a lot of speculation statewide about how we are going to get a balanced budget. The general consensus is that no one knows how or when a budget deal will be finalized.

Upstate Caucus  
North Valley Services,  
Red Bluff  
10:00 am-Noon

The Governor has remained firm in his pledge not to raise or extend taxes without a public vote, and he is still trying to get Republican support to avoid an all-cuts budget. An all-cuts budget is still a distinct possibility given the Governor's inability to reach a budget deal to date.

Institute Board  
Teleconference  
3:00-4:00 pm

### **Retroactive Cut Lawsuit**

On April 15, Judge Lloyd Connelly ruled against our suit to stop the application of the 1.25% cut to payments for services provided before the legislature approved the budget trailer bill that instituted the cut.

**June 15**  
Caucus Steering  
Committee  
Teleconference  
2:00-3:00 pm

**June 16**  
Bay Area Caucus  
Contra Costa Arc  
10:00 am-Noon

CARI & Business  
Services Committee  
Teleconference  
10:00-11:00 am

Public Policy  
Committee  
Teleconference  
3:00-4:30 pm

**June 17**  
Dynamic Solutions  
Board  
Teleconference  
11:00 am-Noon

**June 21**  
Capitol Caucus  
InAlliance  
10:00 am-Noon

Orange County Caucus  
Project Independence  
11:30 am-1:00 pm

**June 22**  
Central Valley Caucus  
ABLE Industries  
10:00 am-Noon

Membership  
Committee  
Teleconference  
2:00-3:00 pm

**June 23**  
San Diego Caucus  
TMI  
10:00 am-Noon

The Court maintained that the use of the date "July 1, 2010" in the bill showed legislative intent that the reduction should be retroactive to that date. Most of the hearing focused on whether the legislature had the power to retroactively change payment rates. The Court found that the most compelling and substantial issue was the constitutional claim under the Contracts clause, and that claim was the focus of the hearing.

Unfortunately, the Court ruled:

- There was no interference with contracts, relying heavily on the fact that there is no direct contract between the State of California and providers, but rather the contracts were between Regional Centers and providers.
- If there was interference, the degree of interference was not "substantial," both as a percentage and as \$6 Million out of a \$2 Billion POS budget.
- If there was interference that was substantial, the Court found that the State DOES have the inherent authority to reduce payments (even retroactively) under its "police power" to protect the public health, safety, and welfare.

As a trial Court opinion, this ruling will not be published and cannot be cited as precedent. There are a variety of reasons and considerations why the provider groups may or may not wish to pursue an appeal.

Service providers should expect to start hearing from their regional centers about how the three months' retroactive "recovery" will be carried out.

The Court reporter's transcript of the hearing is [posted here](#).

## **CDSA Board Election**

The CDSA Board election closed on April 30. Congratulations to the winners:

Sam Seaton, of Pride Industries, was elected Vice President 2011-12. In the following three years, he will serve as President-elect, President, and Immediate Past President.

Three people were elected Board Directors for 2011-13:

- Tim Chervenak, Project Independence
- Diana DeRodeff, InAlliance
- Liz Sutton, North Bay Industries

Their terms start in July. Sam Seaton and Liz Sutton currently serve on the Board as Directors. Tim Chervenak chairs the Caucus Steering Committee and the Orange County Caucus. Diana DeRodeff chairs the Legislation Committee and previously served on the Board.

Joyce Hearn and Carl Ochsner will be leaving the Board at the end of June. Joyce will finish a term as Director, and Carl Ochsner will step down from the Immediate Past President. We thank them for the time, careful thought, and energy they devoted to their Board

responsibilities, and we expect to keep them busy in other roles.

### **2011 CDSA Leadership Retreat**

It was a hard two days in Sacramento, April 26-27, as 25 CDSA members gathered to plan the association's objectives for the coming year. Five other members joined us via teleconference to provide additional ideas.

The group estimated the likely impact of the \$174 million cut on members and other service providers and discussed what CDSA could do to help members cope. They then discussed the impacts on association income and activities. Finally, they incorporated the new ideas into the framework of the strategic plan.

The CDSA Board will review and adjust the material at its Board Retreat, May 11-12.

## **Upcoming Events and Opportunities**

### **Federal Wage-Hour Law Webinar**

Space is still available in the Harles & Associates May 11-12, four-session webinar covering the aspects of Federal wage-hour law that affect community rehabilitation programs. The normal fee for this course is \$250, but CDSA members enjoy a \$50 discount.

#### Wednesday, May 11

10:00-11:30 - Session 1: Section 14(c) Overview and determining prevailing rates

12:30-2:00 - Session 2: Measuring productivity - hourly rates and piece rates

#### Thursday, May 12

10:00-11:00 - Session 3: Who must be paid when? For what? - training, volunteers, down time, etc.

12:00-1:00 - Session 4: Possible changes to Sec. 14(c), changes in DOL enforcement, current investigations and findings.

An organization can have different people attend different sessions to best match staff to the subject matter in each session. An organization can also have more than one person in front of the computer screen and on a speaker phone for one registration. The telephone part of webinar will be through FreeConference.com. The call-in number will NOT be toll free.

Comprehensive handouts will be e-mailed in advance. They will include a copy of the Department of Labor's Field Operations Handbook Chapter 64, regulations, and forms.

The presenter, Charles Harles, is an attorney with more than 35 years experience representing community rehabilitation programs on specialized wage-hour and tax issue. He has successfully represented many clients when investigated by the US Department of Labor.

Register through Harles & Associates. The registration form and additional information are available [here](#). Address questions to Charles Harles, [charlie@harles.com](mailto:charlie@harles.com), 202-546-2847.

## Looking for New Digs: Willing to Share Space

CDSA's current lease ends December 31, and we will be looking for a smaller, less expensive space. This means we may move out of downtown Sacramento - but not so far away that it's hard to get downtown.

CDSA currently sublets space to Futures Explored, and we are open to sharing space with them and with any other CDSA member seeking space near downtown Sac. Alternatively, we're open to renting space from a CDSA member . . .

## CARI and Work Contracts

### Current Projects

The CARI program is working on contract renewals and compiling compliance reports for distribution to State Agencies that contract with the program. CARI is also working on three new contract opportunities throughout the state, as well as two joint venture opportunities.

### New Opportunities

We research contract opportunities weekly. New contract opportunities are sent out on Tuesdays. If you're interested in receiving these notifications or would like bid packets or information about any of the current bid opportunities, please e-mail [Andrea Gallippi](#). More opportunities are coming soon.

## Members' Noteworthy News

### VIP Lands Key Press Coverage

VIP definitely delivered important messages to the public through an article on the front page of the *Inland Valley Daily Bulletin*. Titled "VIP May Lose Funding," the article tells about the important services VIP delivers, the impact of the budget crisis on our industry, the greater cost to the state if our support services disappear, and the challenge of educating legislators.

Here's a [link to the article](#). Our thanks to Shirley Yamano at VIP for sharing this with us.

## Employment Classifieds

### CDSA Employment Advertisements

Do you need to fill a position or are you looking for a new position or career advancement?

List your open position in the CDSA Classifieds. Your open position will be posted on the Listserv, the monthly newsletter and our web site for 30 days. Service fees are \$99 for members and \$275 for non-members; contact [Melissa Smith](#) to place an ad.

## Board & Committee Meetings



### California Disability Services Association Board

The Board approved letting members renew membership for 2011-12 at whatever dues level they were at in 2010-11. A member may still choose to submit a new 990 form and calculate dues based on it. This option allows members to simplify their paperwork and choose whichever option is less expensive.

The Board discussed the ruling in the retroactive cut lawsuit. Expenses now exceed the amount donated by members, and CDSA will ask for additional contributions. The Board also discussed the lawsuit proposed by William McLaughlin of Lang, Richert & Patch. Mr. McLaughlin proposes suing DDS in federal court for failing to meet Medicare requirements or in state court for failing to comply with the Lanterman Act.

The Board also discussed possible endorsement of an insurance brokerage and electronic billing but did not approve either proposal.



### California Disability Services Institute Board

In June, the Institute Board will need to elect four directors. The Board is seeking people with an interest in training and public outreach.

The Institute Board reviewed the strategic plan, efforts for seminars on autism and safety, and activity on the Institute Facebook page. The next major project for the Board will be planning for the annual meeting.



### Dynamic Solutions Incorporated Board

The DSI Board did not meet in April.



## **CARI and Business Services Committee**

The CARI Committee did not meet in April.

## **Caucus Steering Committee**

The Committee did not meet this month.

## **Membership Committee**

The Membership Committee recommended two items to the Board two items. The first proposal is to allow members, if they choose, to continue at the same dues level they have this year for the next administrative year. This would simplify the process for many members and might provide a small savings for some. Members still could submit a new 990 and calculate their dues from it.

The second proposal was to move to PayPal electronic billing and payment for CDSA transactions with members. This would eliminate paperwork for both CDSA and members, but there would be a 2.2% charge for this.

The Committee also reviewed the strategic plan and discussed when to reactivate the Business Advisory Team.

## **Public Policy Committee**

The Committee reviewed the bill watch list, added AB 508 and SB 368 to the list, and updated CDSA's positions. The Committee voted to oppose AB 899 and SB 411, to support SB 453 and SCR 29, and to get further information to consider support of SB 166.

The Committee also put several federal bills on its watch list and asked lobbyists to find out the positions of national organizations on those bills and determine if there are any other subminimum wage bills we need to track at the state or federal level.

The Committee discussed what has been learned from the stakeholder workgroup process. Each group's efforts resulted in about 15 suggestions for DDS to consider. There was a lot of talk regarding four-day/week day programs or hourly billing for day programs, a one year eligibility wait list for people coming into California, drop-in centers modeled after Integrity House in San Diego, having residential providers help with transportation, blending of housing levels, and modifications to the vendorization system. Work activity programs and supported employment were not really mentioned in the workgroups that CDSA members participated in. Overall DDS seemed sincere, acknowledged that methods to achieve savings in one program will have effects on other program areas and are still fiercely protective of the DCs.

CDSA's "spread the cuts equitably" argument continues to be questioned by key legislative staff who are relying on data from DDS.

Meetings to date to determine where calculations differ have not yielded definitive results. Senator Pavley has been assisting us with attempts to clarify information from DDS.

The Committee also discussed the presentation by lawyer William McLaughlin in Fresno in which he proposed suing DDS.

### **Public Relations Committee**

The Committee discussed development of an economic impact form that members could use to define their importance to their communities. The Committee asked staff to investigate the availability of a new URL that would use CDSA rather than Cal-DSA. Review of the strategic plan led to a discussion of the communications to members, families, and the public and the possible need for a communications assessment plan.

### **Business Advisory Team**

The team did not meet this month.

## Who's Who & How to Contact

### **California Disability Services Association**

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