

CHAPTER 463

An act to add Section 11656.7 to the Insurance Code, to amend Section 3351.5 of the Labor Code, to add Section 683 to the Unemployment Insurance Code, and to add Section 12302.2 to the Welfare and Institutions Code, relating to public social services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 18, 1978. Filed with Secretary of State July 18, 1978.]

The people of the State of California do enact as follows:

SECTION 1. Section 11656.7 is added to the Insurance Code, to read:

11656.7. Upon request of the State Department of Social Services, the State Compensation Insurance Fund may issue one workers' compensation insurance policy insuring all recipients of in-home supportive services under Article 7 (commencing with Section 12300), Chapter 3, Part 3, Division 9 of the Welfare and Institutions Code for whom and to the extent that the State Department of Social Services has an obligation to perform or assure the performance of rights, duties and obligations relating to such services as specified in Section 12302.2 of the Welfare and Institutions Code.

SEC. 2. Section 3351.5 of the Labor Code is amended to read:
3351.5. "Employee" includes:

(a) Any person whose employment training is arranged by the State Department of Rehabilitation with any employer. Such person shall be deemed an employee of such employer for workers' compensation purposes; provided that, the department shall bear the full amount of any additional workers' compensation insurance premium expense incurred by the employer due to the provisions of this section.

(b) Any person defined in subdivision (d) of Section 3351 who performs domestic service comprising in-home supportive services under Article 7 (commencing with Section 12300), Chapter 3, Part 3, Division 9 of the Welfare and Institutions Code. For purposes of Section 3352, such person shall be deemed an employee of the recipient of such services for workers' compensation purposes if the state or county makes or provides for direct payment to such person or to the recipient of in-home supportive services for the purchase of services, subject to the provisions of Section 12302.2 of the Welfare and Institutions Code.

SEC. 3. Section 683 is added to the Unemployment Insurance Code, to read:

683. "Employer" also means any employing unit which employs individuals to perform domestic service comprising in-home supportive services under Article 7 (commencing with Section

12300), Chapter 3, Part 3, Division 9 of the Welfare and Institutions Code and pays wages in cash of one thousand dollars (\$1,000) or more for such service during any calendar quarter in the calendar year or the preceding calendar year, and is one of the following:

(a) The recipient of such services, if the state or county makes or provides for direct payment to a provider chosen by the recipient or to the recipient of such services for the purchase of services, subject to the provisions of Section 12302.2 of the Welfare and Institutions Code.

(b) The individual or entity with whom a county contracts to provide in-home supportive services.

(c) Any county which hires and directs in-home supportive personnel in accordance with established county civil service requirements or merit system requirements for those counties not having civil service systems.

SEC. 4. Section 12302.2 is added to the Welfare and Institutions Code, to read:

12302.2. (a) If the state or a county makes or provides for direct payment to a provider chosen by a recipient or to the recipient for the purchase of in-home supportive services, the department shall perform or assure the performance of all rights, duties and obligations of the recipient relating to such services as required for purposes of unemployment compensation, unemployment compensation disability benefits, workers' compensation, federal and state income tax, and federal old-age survivors and disability insurance benefits. Such rights, duties, and obligations include, but are not limited to, registration and obtaining employer account numbers, providing information, notices, and reports, making applications and returns, and withholding in trust from the payments made to or on behalf of a recipient amounts to be withheld from the wages of the provider by the recipient as an employer and transmitting such amounts along with amounts required for all contributions, premiums, and taxes payable by the recipient as the employer to the appropriate person or state or federal agency. The department may assure the performance of any or all such rights, duties, and obligations by contract with any person, or any public or private agency.

Contributions, premiums, and taxes shall be paid or transmitted on the recipient's behalf as the employer for any period commencing on or after January 1, 1978, except that contributions, premiums, and taxes for federal and state income taxes and federal old-age, survivors and disability insurance contributions shall be paid or transmitted pursuant to this section commencing with the first full month which begins 90 days after the effective date of this section.

Contributions, premiums, and taxes paid or transmitted on the recipient's behalf for unemployment compensation, workers' compensation, and the employer's share of federal old-age survivors and disability insurance benefits shall be payable in addition to the maximum monthly amount established pursuant to Section 12303.5

or subdivision (a) of Section 12304 or other amount payable to or on behalf of a recipient. Contributions, premiums, or taxes resulting from liability incurred by the recipient as employer for unemployment compensation, workers' compensation, and federal old-age, survivors and disability insurance benefits with respect to any period commencing on or after January 1, 1978, and ending on or before the effective date of this section shall also be payable in addition to the maximum monthly amount established pursuant to Section 12303.5 or subdivision (a) of Section 12304 or other amount payable to or on behalf of the recipient. Nothing in this section shall be construed to permit any interference with the recipient's right to select the provider of services or to authorize a charge for administrative costs against any amount payable to or on behalf of a recipient.

(b) Funding for the costs of administering this section and for contributions, premiums, and taxes paid or transmitted on the recipient's behalf as an employer pursuant to this section shall qualify, where possible, for the maximum federal reimbursement. To the extent that federal funds are inadequate, notwithstanding Section 12306, the state shall provide funding for the purposes of this section.

SEC. 5. The sum of thirteen million dollars (\$13,000,000) is hereby appropriated from the General Fund to the State Department of Social Services for the purposes of this act.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are as follows:

Coverage of in-home supportive services for workers' compensation, unemployment and disability insurance has resulted in hardship to recipients of such services and confusion as to the status of recipients as employers. In order to provide for the welfare of recipients by establishing a system of assurances and delegation of performance of employer's duties, it is necessary that this act take effect immediately.

CHAPTER 464

An act to amend Sections 1811, 1812, and 1813 of, to amend and repeal Section 888 of, and to add Sections 887, 888.3, and 891 to, the Welfare and Institutions Code, and to amend Sections 11, 13, and 14 of Chapter 1241 of the Statutes of 1977, relating to juvenile court law, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 18, 1978. Filed with
Secretary of State July 18, 1978.]