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SB-192 Mental Health Services Fund. (2017-2018)

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Senate Bill No. 192

CHAPTER 328

An act to amend Sections 5892 and 5892.1 of the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 10, 2018. Filed with Secretary of State September 10, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 192, Beall. Mental Health Services Fund.

Existing law, the Mental Health Services Act (the MHSA), an initiative measure enacted by the voters as Proposition 63 at the November 2, 2004, statewide general election, establishes the continuously appropriated Mental Health Services Fund to fund various county mental health programs by imposing a tax of 1% on incomes above \$1,000,000. Existing law requires the State Department of Health Care Services, among other things, to implement specified mental health services through contracts with county mental health programs or counties acting jointly. The MHSA establishes the Mental Health Services Oversight and Accountability Commission to oversee various parts of the act, as specified.

Under the MHSA, funds are distributed to counties for local assistance for designated mental health programs according to a specified county plan. The MHSA authorizes a county to maintain a prudent reserve to ensure that services do not have to be significantly reduced in years in which revenues are below the average of previous years. The MHSA, except as specified, requires any funds allocated to a county that have not been spent for their authorized purpose within 3 years to revert to the state to be deposited into the fund and available for other counties in future years. The MHSA permits amendment by the Legislature by a $\frac{2}{3}$ vote of each house if the amendment is consistent with, and furthers the intent of, the MHSA, and also permits the Legislature to add provisions to clarify procedures and terms of the MHSA by a majority vote.

This bill would clarify that the value of a prudent reserve for a Local Mental Health Services Fund shall not exceed 33% of the average community services and support revenue received for the fund, in the preceding 5 years. The bill would require the county to reassess the maximum amount of the prudent reserve every 5 years and to certify the reassessment as part of its 3-year program and expenditure plan required by the MHSA. By requiring a new assessment and certification to be made by the counties, this bill would impose a state-mandated local program.

This bill would establish the Reversion Account within the fund, and would require that MHSA funds reverting from the counties, and the interest accrued on those funds, be placed in that account.

Existing law deems all unspent MHSA funds that were subject to reversion as of July 1, 2017, as having been reverted and reallocated to the county of origin for the purposes for which they were originally allocated. Existing law requires each county with these reallocated funds, by July 1, 2018, to prepare a plan to expend those funds before July 1, 2020.

This bill would require the counties to submit the plans to expend the reallocated funds to the commission. The bill would require the reallocated funds to revert to the state if a county has not submitted a plan for the expenditure of the reallocated funds by

January 1, 2019. Additionally, the bill would require the reallocated funds in the plan that have not been spent or encumbered by July 1, 2020, to revert to the state, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 5892 of the Welfare and Institutions Code is amended to read:

5892. (a) In order to promote efficient implementation of this act, the county shall use funds distributed from the Mental Health Services Fund as follows:

(1) In the 2005–06, 2006–07, and 2007–08 fiscal years, 10 percent shall be placed in a trust fund to be expended for education and training programs pursuant to Part 3.1 (commencing with Section 5820).

(2) In the 2005–06, 2006–07, and 2007–08 fiscal years, 10 percent for capital facilities and technological needs shall be distributed to counties in accordance with a formula developed in consultation with the County Behavioral Health Directors Association of California to implement plans developed pursuant to Section 5847.

(3) Twenty percent of funds distributed to the counties pursuant to subdivision (c) of Section 5891 shall be used for prevention and early intervention programs in accordance with Part 3.6 (commencing with Section 5840).

(4) The expenditure for prevention and early intervention may be increased in any county in which the department determines that the increase will decrease the need and cost for additional services to persons with severe mental illness in that county by an amount at least commensurate with the proposed increase.

(5) The balance of funds shall be distributed to county mental health programs for services to persons with severe mental illnesses pursuant to Part 4 (commencing with Section 5850) for the children's system of care and Part 3 (commencing with Section 5800) for the adult and older adult system of care. These services may include housing assistance, as defined in Section 5892.5, to the target population specified in Section 5600.3.

(6) Five percent of the total funding for each county mental health program for Part 3 (commencing with Section 5800), Part 3.6 (commencing with Section 5840), and Part 4 (commencing with Section 5850), shall be utilized for innovative programs in accordance with Sections 5830, 5847, and 5848.

(b) (1) In any fiscal year after the 2007–08 fiscal year, programs for services pursuant to Part 3 (commencing with Section 5800) and Part 4 (commencing with Section 5850) may include funds for technological needs and capital facilities, human resource needs, and a prudent reserve to ensure services do not have to be significantly reduced in years in which revenues are below the average of previous years. The total allocation for purposes authorized by this subdivision shall not exceed 20 percent of the average amount of funds allocated to that county for the previous five fiscal years pursuant to this section.

(2) A county shall calculate an amount it establishes as the prudent reserve for its Local Mental Health Services Fund, not to exceed 33 percent of the average community services and support revenue received for the fund in the preceding five years. The county shall reassess the maximum amount of this reserve every five years and certify the reassessment as part of the three-year program and expenditure plan required pursuant to Section 5847.

(c) The allocations pursuant to subdivisions (a) and (b) shall include funding for annual planning costs pursuant to Section 5848. The total of these costs shall not exceed 5 percent of the total of annual revenues received for the fund. The planning costs shall include funds for county mental health programs to pay for the costs of consumers, family members, and other stakeholders to participate in the planning process and for the planning and implementation required for private provider contracts to be significantly expanded to provide additional services pursuant to Part 3 (commencing with Section 5800) and Part 4 (commencing with Section 5850).

(d) Prior to making the allocations pursuant to subdivisions (a), (b), and (c), funds shall be reserved for the costs for the State Department of Health Care Services, the California Behavioral Health Planning Council, the Office of Statewide Health Planning and Development, the Mental Health Services Oversight and Accountability Commission, the State Department of Public Health, and any other state agency to implement all duties pursuant to the programs set forth in this section. These costs shall not exceed 5 percent of the total of annual revenues received for the fund. The administrative costs shall include funds to assist

consumers and family members to ensure the appropriate state and county agencies give full consideration to concerns about quality, structure of service delivery, or access to services. The amounts allocated for administration shall include amounts sufficient to ensure adequate research and evaluation regarding the effectiveness of services being provided and achievement of the outcome measures set forth in Part 3 (commencing with Section 5800), Part 3.6 (commencing with Section 5840), and Part 4 (commencing with Section 5850). The amount of funds available for the purposes of this subdivision in any fiscal year is subject to appropriation in the annual Budget Act.

(e) In the 2004–05 fiscal year, funds shall be allocated as follows:

- (1) Forty-five percent for education and training pursuant to Part 3.1 (commencing with Section 5820).
- (2) Forty-five percent for capital facilities and technology needs in the manner specified by paragraph (2) of subdivision (a).
- (3) Five percent for local planning in the manner specified in subdivision (c).
- (4) Five percent for state implementation in the manner specified in subdivision (d).

(f) Each county shall place all funds received from the State Mental Health Services Fund in a local Mental Health Services Fund. The Local Mental Health Services Fund balance shall be invested consistent with other county funds and the interest earned on the investments shall be transferred into the fund. The earnings on investment of these funds shall be available for distribution from the fund in future fiscal years.

(g) All expenditures for county mental health programs shall be consistent with a currently approved plan or update pursuant to Section 5847.

(h) (1) Other than funds placed in a reserve in accordance with an approved plan, any funds allocated to a county that have not been spent for their authorized purpose within three years, and the interest accruing on those funds, shall revert to the state to be deposited into the Reversion Account, hereby established in the fund, and available for other counties in future years, provided, however, that funds, including interest accrued on those funds, for capital facilities, technological needs, or education and training may be retained for up to 10 years before reverting to the Reversion Account.

(2) If a county receives approval from the Mental Health Services Oversight and Accountability Commission of a plan for innovative programs, pursuant to subdivision (e) of Section 5830, the county's funds identified in that plan for innovative programs shall not revert to the state pursuant to paragraph (1) until three years after the date of the approval.

(3) Notwithstanding paragraph (1), any funds allocated to a county with a population of less than 200,000 that have not been spent for their authorized purpose within five years shall revert to the state as described in paragraph (1).

(4) Notwithstanding paragraphs (1) and (2), if a county with a population of less than 200,000 receives approval from the Mental Health Services Oversight and Accountability Commission of a plan for innovative programs, pursuant to subdivision (e) of Section 5830, the county's funds identified in that plan for innovative programs shall not revert to the state pursuant to paragraph (1) until five years after the date of the approval.

(i) If there are revenues available in the fund after the Mental Health Services Oversight and Accountability Commission has determined there are prudent reserves and no unmet needs for any of the programs funded pursuant to this section, including all purposes of the Prevention and Early Intervention Program, the commission shall develop a plan for expenditures of these revenues to further the purposes of this act and the Legislature may appropriate these funds for any purpose consistent with the commission's adopted plan that furthers the purposes of this act.

SEC. 2. Section 5892.1 of the Welfare and Institutions Code is amended to read:

5892.1. (a) All unspent funds subject to reversion pursuant to subdivision (h) of Section 5892 as of July 1, 2017, are deemed to have been reverted to the fund and reallocated to the county of origin for the purposes for which they were originally allocated.

(b) (1) The department shall, on or before July 1, 2018, in consultation with counties and other stakeholders, prepare a report to the Legislature identifying the amounts that were subject to reversion prior to July 1, 2017, including to which purposes the unspent funds were allocated pursuant to Section 5892.

(2) Prior to the preparation of the report referenced in paragraph (1), the department shall provide to counties the amounts it has determined are subject to reversion, and provide a process for counties to appeal this determination.

(c) (1) By July 1, 2018, each county with unspent funds subject to reversion that are deemed reverted and reallocated pursuant to subdivision (a) shall prepare a plan to expend these funds on or before July 1, 2020. The plan shall be submitted to the commission for review.

(2) A county with unspent funds that are deemed reverted and reallocated pursuant to subdivision (a) that has not prepared and submitted a plan to the commission pursuant to paragraph (1) as of January 1, 2019, shall remit the unspent funds to the state pursuant to paragraph (1) of subdivision (h) of Section 5892 no later than July 1, 2019.

(d) Funds included in the plan required pursuant to subdivision (c) that are not spent as of July 1, 2020, shall revert to the state pursuant to paragraph (1) of subdivision (h) of Section 5892.

(e) (1) The requirement for submitting a report imposed under subdivision (b) is inoperative on July 1, 2022, pursuant to Section 10231.5 of the Government Code.

(2) A report to be submitted pursuant to subdivision (b) shall be submitted in compliance with Section 9795 of the Government Code.

(f) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department, without taking any further regulatory action, may implement, interpret, or make specific this section, Section 5899.1, and subdivision (h) of Section 5892, by means of all-county letters or other similar instructions, until applicable regulations are adopted in accordance with Section 5898, or until July 1, 2019, whichever occurs first. The all-county letters or other similar instructions shall be issued only after the department provides the opportunity for public participation and comments.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.