

AMENDED IN ASSEMBLY MARCH 4, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 883

Introduced by Assembly Member O'Donnell

February 17, 2021

An act ~~relating to pupil instruction~~, to amend Section 5892 of, and to add Section 5899.2 to, the Welfare and Institutions Code, relating to mental health, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 883, as amended, O'Donnell. ~~Pupil instruction: school class size.~~ *Mental Health Services Act: local educational agencies.*

Existing law, the Mental Health Services Act (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 (MHSF) to fund various county mental health programs and requires counties to spend those funds as specified. Existing law requires funds allocated to a county that have not been spent for their authorized purpose within 3 years, and the interest accruing on those funds, to revert to the state, except for specified purposes, including capital facilities and technological needs, which revert after 10 years. Under existing law, reverted funds are reallocated to the counties, as specified. As part of the MHSA, existing law requires counties to engage in specified planning activities, including creating and updating a 3-year program and expenditure plan through a stakeholder process.

Existing law authorizes the MHSA to be amended by a $\frac{2}{3}$ vote of the Legislature if the amendments are consistent with, and further the purposes of, the MHSA.

This bill would amend the MHSA by requiring reverted funds to be used in the county from which the funds reverted, except as specified. The bill would also amend the MHSA by requiring a county that has had funds reverted to work with the local educational agencies (LEAs) within that county to create a plan for the use of the reverted funds by the LEAs to provide early intervention services to youth, including through school-based or school-connected services. By authorizing a new purpose for continuously appropriated funds, this bill would make an appropriation. The bill would authorize the county to use the reversion funds that remain after the funds are distributed to the LEAs, if any, to implement the county’s 3-year program and expenditure plan. The bill would make funds used for school mental health purposes subject to reversion after 10 years.

This bill would state the finding and declaration of the Legislature that this change is consistent with, and furthers the intent of, the MHSA.

~~Existing law establishes a system of public elementary and secondary education in this state. Existing law establishes local educational agencies, including school districts and county offices of education, throughout the state, and authorizes these agencies to provide instruction to pupils in kindergarten and grades 1 to 12, inclusive. Existing law expresses the intent and purpose of the Legislature to encourage, by every means possible, the reduction of class sizes and the ratio of pupils to teachers in all grade levels in the public schools, and to urge every effort to this end to be undertaken by the local school administrative authorities.~~

~~This bill would express the intent of the Legislature to enact subsequent legislation relating to class size in schools.~~

Vote: ~~majority~~^{2/3}. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

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

- 1 **SECTION 1.** *Section 5892 of the Welfare and Institutions Code*
- 2 *is amended to read:*
- 3 5892. (a) In order to promote efficient implementation of this
- 4 act, the county shall use funds distributed from the Mental Health
- 5 Services Fund as follows:
- 6 (1) In the 2005–06, 2006–07, and 2007–08 fiscal years, 10
- 7 percent shall be placed in a trust fund to be expended for education

1 and training programs pursuant to Part 3.1 (commencing with
2 Section 5820).

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

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

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

18 (5) The balance of funds shall be distributed to county mental
19 health programs for services to persons with severe mental illnesses
20 pursuant to Part 4 (commencing with Section 5850) for the
21 children’s system of care and Part 3 (commencing with Section
22 5800) for the adult and older adult system of care. These services
23 may include housing assistance, as defined in Section 5892.5, to
24 the target population specified in Section 5600.3.

25 (6) Five percent of the total funding for each county mental
26 health program for Part 3 (commencing with Section 5800), Part
27 3.6 (commencing with Section 5840), and Part 4 (commencing
28 with Section 5850), shall be utilized for innovative programs in
29 accordance with Sections 5830, 5847, and 5848.

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

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

8 (3) Notwithstanding Chapter 3.5 (commencing with Section
9 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
10 the State Department of Health Care Services may allow counties
11 to determine the percentage of funds to allocate across programs
12 created pursuant to Part 4 (commencing with Section 5850) for
13 the children's system of care and Part 3 (commencing with Section
14 5800) for the adult and older adult system of care for the 2020–21
15 fiscal year by means of all-county letters or other similar
16 instructions without taking further regulatory action.

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

28 (d) Prior to making the allocations pursuant to subdivisions (a),
29 (b), and (c), funds shall be reserved for the costs for the State
30 Department of Health Care Services, the California Behavioral
31 Health Planning Council, the Office of Statewide Health Planning
32 and Development, the Mental Health Services Oversight and
33 Accountability Commission, the State Department of Public Health,
34 and any other state agency to implement all duties pursuant to the
35 programs set forth in this section. These costs shall not exceed 5
36 percent of the total of annual revenues received for the fund. The
37 administrative costs shall include funds to assist consumers and
38 family members to ensure the appropriate state and county agencies
39 give full consideration to concerns about quality, structure of
40 service delivery, or access to services. The amounts allocated for

1 administration shall include amounts sufficient to ensure adequate
2 research and evaluation regarding the effectiveness of services
3 being provided and achievement of the outcome measures set forth
4 in Part 3 (commencing with Section 5800), Part 3.6 (commencing
5 with Section 5840), and Part 4 (commencing with Section 5850).
6 The amount of funds available for the purposes of this subdivision
7 in any fiscal year is subject to appropriation in the annual Budget
8 Act.

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

11 (1) Forty-five percent for education and training pursuant to
12 Part 3.1 (commencing with Section 5820).

13 (2) Forty-five percent for capital facilities and technology needs
14 in the manner specified by paragraph (2) of subdivision (a).

15 (3) Five percent for local planning in the manner specified in
16 subdivision (c).

17 (4) Five percent for state implementation in the manner specified
18 in subdivision (d).

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

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

29 (h) (1) Other than funds placed in a reserve in accordance with
30 an approved plan, ~~any~~ funds allocated to a county that have not
31 been spent for their authorized purpose within three years, and the
32 interest accruing on those funds, shall revert to the state to be
33 deposited into the Reversion Account, hereby established in the
34 fund, and available for ~~other counties in future years, use pursuant~~
35 *to Section 5899.2*, provided, however, that funds, including interest
36 accrued on those funds, for capital facilities, technological needs,
37 *school mental health services*, or education and training may be
38 retained for up to 10 years before reverting to the Reversion
39 Account.

1 (2) (A) If a county receives approval from the Mental Health
2 Services Oversight and Accountability Commission of a plan for
3 innovative programs, pursuant to subdivision (e) of Section 5830,
4 the county's funds identified in that plan for innovative programs
5 shall not revert to the state pursuant to paragraph (1) so long as
6 they are encumbered under the terms of the approved project plan,
7 including any subsequent amendments approved by the
8 commission, or until three years after the date of approval,
9 whichever is later.

10 (B) Subparagraph (A) applies to all plans for innovative
11 programs that have received commission approval and are in the
12 process at the time of enactment of the act that added this
13 subparagraph, and to all plans that receive commission approval
14 thereafter.

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

19 (4) (A) Notwithstanding paragraphs (1) and (2), if a county
20 with a population of less than 200,000 receives approval from the
21 Mental Health Services Oversight and Accountability Commission
22 of a plan for innovative programs, pursuant to subdivision (e) of
23 Section 5830, the county's funds identified in that plan for
24 innovative programs shall not revert to the state pursuant to
25 paragraph (1) so long as they are encumbered under the terms of
26 the approved project plan, including any subsequent amendments
27 approved by the commission, or until five years after the date of
28 approval, whichever is later.

29 (B) Subparagraph (A) applies to all plans for innovative
30 programs that have received commission approval and are in the
31 process at the time of enactment of the act that added this
32 subparagraph, and to all plans that receive commission approval
33 thereafter.

34 (i) Notwithstanding subdivision (h) and Section 5892.1, unspent
35 funds allocated to a county, and interest accruing on those funds,
36 which are subject to reversion as of July 1, 2019, and July 1, 2020,
37 shall be subject to reversion on July 1, 2021.

38 (j) If there are revenues available in the fund after the Mental
39 Health Services Oversight and Accountability Commission has
40 determined there are prudent reserves and no unmet needs for any

1 of the programs funded pursuant to this section, including all
2 purposes of the Prevention and Early Intervention Program, the
3 commission shall develop a plan for expenditures of these revenues
4 to further the purposes of this act and the Legislature may
5 appropriate these funds for any purpose consistent with the
6 commission's adopted plan that furthers the purposes of this act.

7 *SEC. 2. Section 5899.2 is added to the Welfare and Institutions*
8 *Code, to read:*

9 *5899.2. (a) Funds subject to reversion pursuant to subdivision*
10 *(h) of Section 5892 shall be reallocated to the county from which*
11 *the funds reverted, to be used as provided in this section.*

12 *(b) (1) A county that has had funds reverted pursuant to*
13 *subdivision (h) of Section 5892 shall work with the local*
14 *educational agencies (LEAs) within that county to create a plan*
15 *for the use of the reverted funds by the LEAs to provide early*
16 *intervention services to youth, including through school-based or*
17 *school-connected services. The plan shall be developed in*
18 *conjunction with the stakeholders identified in subdivision (a) of*
19 *Section 5848. When the plan is developed, the county shall allocate*
20 *the reverted funds to the LEAs for use pursuant to the plan.*

21 *(2) If the county has not created a plan pursuant to this*
22 *subdivision within three years of the date of reversion, the funds*
23 *shall be deposited in the Mental Health Services Fund for*
24 *distribution pursuant to Section 5892.*

25 *(c) The LEAs may provide mental health services to youth*
26 *directly or through partnerships with county or other local*
27 *agencies.*

28 *(d) If there are reversion funds available after the funds are*
29 *distributed pursuant to the plan required in subdivision (b), the*
30 *county may use the remaining funds to implement the county's*
31 *three-year program and expenditure plan developed pursuant to*
32 *Section 5847.*

33 *SEC. 3. The Legislature finds and declares that this act is*
34 *consistent with, and furthers the intent of, the Mental Health*
35 *Services Act within the meaning of Section 18 of that act.*

36 ~~SECTION 1. It is the intent of the Legislature to enact~~
37 ~~subsequent legislation relating to class size in schools.~~