

AMENDED IN ASSEMBLY APRIL 8, 2021

AMENDED IN ASSEMBLY MARCH 4, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

**ASSEMBLY BILL**

**No. 883**

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**Introduced by Assembly Member O'Donnell**

February 17, 2021

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An act 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. 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~~) (*LEAs*), *community-based mental health agencies, and other specified stakeholders* 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, for school-based mental health services, as specified. The bill would prohibit the reverted funds from being used to pay for educationally related mental health 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.~~ *require reversion funds not used for the plan to be deposited in the Mental Health Services Fund and redistributed as provided.* 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.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: 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
- 8 and training programs pursuant to Part 3.1 (commencing with
- 9 Section 5820).
- 10 (2) In the 2005–06, 2006–07, and 2007–08 fiscal years, 10
- 11 percent for capital facilities and technological needs shall be
- 12 distributed to counties in accordance with a formula developed in

1 consultation with the County Behavioral Health Directors  
2 Association of California to implement plans developed pursuant  
3 to Section 5847.

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

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

13 (5) The balance of funds shall be distributed to county mental  
14 health programs for services to persons with severe mental illnesses  
15 pursuant to Part 4 (commencing with Section 5850) for the  
16 children's system of care and Part 3 (commencing with Section  
17 5800) for the adult and older adult system of care. These services  
18 may include housing assistance, as defined in Section 5892.5, to  
19 the target population specified in Section 5600.3.

20 (6) Five percent of the total funding for each county mental  
21 health program for Part 3 (commencing with Section 5800), Part  
22 3.6 (commencing with Section 5840), and Part 4 (commencing  
23 with Section 5850), shall be utilized for innovative programs in  
24 accordance with Sections 5830, 5847, and 5848.

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

35 (2) A county shall calculate an amount it establishes as the  
36 prudent reserve for its Local Mental Health Services Fund, not to  
37 exceed 33 percent of the average community services and support  
38 revenue received for the fund in the preceding five years. The  
39 county shall reassess the maximum amount of this reserve every

1 five years and certify the reassessment as part of the three-year  
2 program and expenditure plan required pursuant to Section 5847.  
3 (3) Notwithstanding Chapter 3.5 (commencing with Section  
4 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
5 the State Department of Health Care Services may allow counties  
6 to determine the percentage of funds to allocate across programs  
7 created pursuant to Part 4 (commencing with Section 5850) for  
8 the children’s system of care and Part 3 (commencing with Section  
9 5800) for the adult and older adult system of care for the 2020–21  
10 fiscal year by means of all-county letters or other similar  
11 instructions without taking further regulatory action.

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

23 (d) Prior to making the allocations pursuant to subdivisions (a),  
24 (b), and (c), funds shall be reserved for the costs for the State  
25 Department of Health Care Services, the California Behavioral  
26 Health Planning Council, the Office of Statewide Health Planning  
27 and Development, the Mental Health Services Oversight and  
28 Accountability Commission, the State Department of Public Health,  
29 and any other state agency to implement all duties pursuant to the  
30 programs set forth in this section. These costs shall not exceed 5  
31 percent of the total of annual revenues received for the fund. The  
32 administrative costs shall include funds to assist consumers and  
33 family members to ensure the appropriate state and county agencies  
34 give full consideration to concerns about quality, structure of  
35 service delivery, or access to services. The amounts allocated for  
36 administration shall include amounts sufficient to ensure adequate  
37 research and evaluation regarding the effectiveness of services  
38 being provided and achievement of the outcome measures set forth  
39 in Part 3 (commencing with Section 5800), Part 3.6 (commencing  
40 with Section 5840), and Part 4 (commencing with Section 5850).

1 The amount of funds available for the purposes of this subdivision  
2 in any fiscal year is subject to appropriation in the annual Budget  
3 Act.

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

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

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

10 (3) Five percent for local planning in the manner specified in  
11 subdivision (c).

12 (4) Five percent for state implementation in the manner specified  
13 in subdivision (d).

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

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

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

34 (2) (A) If a county receives approval from the Mental Health  
35 Services Oversight and Accountability Commission of a plan for  
36 innovative programs, pursuant to subdivision (e) of Section 5830,  
37 the county's funds identified in that plan for innovative programs  
38 shall not revert to the state pursuant to paragraph (1) so long as  
39 they are encumbered under the terms of the approved project plan,  
40 including any subsequent amendments approved by the

1 commission, or until three years after the date of approval,  
2 whichever is later.

3 (B) Subparagraph (A) applies to all plans for innovative  
4 programs that have received commission approval and are in the  
5 process at the time of enactment of the act that added this  
6 subparagraph, and to all plans that receive commission approval  
7 thereafter.

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

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

22 (B) Subparagraph (A) applies to all plans for innovative  
23 programs that have received commission approval and are in the  
24 process at the time of enactment of the act that added this  
25 subparagraph, and to all plans that receive commission approval  
26 thereafter.

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

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

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

3 5899.2. (a) Funds subject to reversion pursuant to subdivision  
4 (h) of Section 5892 shall be reallocated to the county from which  
5 the funds reverted, to be used as provided in this section.

6 (b) (1) A county that has had funds reverted pursuant to  
7 subdivision (h) of Section 5892 shall work with the local  
8 educational agencies ~~(LEAs)~~ *(LEAs)*, *community-based mental*  
9 *health agencies, and other stakeholders identified in subdivision*  
10 *(a) of Section 5848* within that county to create a plan for the use  
11 of the reverted funds ~~by the LEAs to provide funds. These plans~~  
12 ~~shall be developed in concert with the LEAs and shall be for~~  
13 ~~school-based mental health services, to include early intervention~~  
14 ~~services to youth, including through school-based or~~  
15 ~~school-connected services. The plan shall be developed in~~  
16 ~~conjunction with the stakeholders identified in subdivision (a) of~~  
17 ~~Section 5848.~~ When the plan is developed, the county shall allocate  
18 the reverted funds to the LEAs for use pursuant to the plan.

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

23 (c) ~~The LEAs may provide~~ *Funds allocated pursuant to this*  
24 *section may be used to provide* mental health services to youth  
25 *directly by LEAs* or through partnerships with county or ~~other~~  
26 *community-based* local agencies.

27 (d) *Funds reverted pursuant to subdivision (h) of Section 5892*  
28 *shall not be used to pay for educationally related mental health*  
29 *services.*

30 ~~(d)~~

31 (e) If there are reversion funds available after the funds are  
32 distributed pursuant to the plan required in subdivision (b), the  
33 county may use the remaining funds to implement the county's  
34 ~~three-year program and expenditure plan developed pursuant to~~  
35 ~~Section 5847.~~ *funds shall be deposited in the Mental Health*  
36 *Services Fund for distribution pursuant to Section 5892.*

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

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