State of Wisconsin
2013 – 2014 LEGISLATURE

LRB-3513/P3
TJD:cjs:jf

In. 1/30 after hours

Due Fri 1/31 ASAP

stays RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

LPS: please delete the notes as indicated in the draft

SAW

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AN ACT ***to amend*** 15.07 (1) (cm), 46.031 (2), 46.031 (2g) (a), 46.031 (2g) (b), 46.031 (2r) (b), 46.031 (3) (a), 46.031 (3) (b), 46.031 (3) (c), 46.034 (3), 46.175, 46.18 (1), 46.18 (3), 46.18 (4), 46.18 (11), 46.18 (12), 46.18 (13), 46.18 (14), 46.18 (15), 46.21 (2) (a), (j), (k), (m) and (q), (2m) (a) and (b) 1. (intro.), (3), (3g), (3r), (4), (4m) (a) and (b) and (6), 46.56 (1) (a), 46.56 (2) (a), 46.56 (2) (b), 46.56 (3) (b) 11., 46.56 (4) (d), 46.56 (15) (b) (intro.), 46.87 (3) (a), 46.87 (3) (c) (intro.), 46.87 (4), 46.87 (7) (intro.), 46.87 (7) (b), 46.87 (7) (c), 51.08, 51.20 (18) (a), 51.42 (1) (b), 51.42 (3) (a), 51.42 (3) (ar) 8., 51.42 (3) (ar) 14., 51.42 (3) (b), 51.42 (4) (a) 2. (intro.), 51.42 (6m) (intro.), 51.42 (6m) (c), 51.42 (6m) (i), 51.42 (6m) (m) 3., 51.423 (11), 51.44 (4), 51.61 (1) (e), 51.61 (1) (f), 55.001 and 59.53 (7); and ***to create*** 13.94 (1) (mg), 15.07 (1) (b) 24., 15.07 (3) (bm) 7., 15.195 (9), 17.07 (3r), 20.435 (5) (kf), 51.41 and 59.53 (25) of the statutes; **relating to:** Milwaukee County mental

health functions, programs, and services, creation of the Milwaukee County Mental Health Board, and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill creates the Milwaukee County Mental Health Board (MCMHB) attached to the Department of Health Services (DHS) for limited purposes. The MCMHB is comprised of 11 voting and 2 nonvoting members nominated by the governor and with advice and consent of the senate appointed to serve for four–year terms. The bill specifies a procedures for suggesting individuals for nominations and creates limitations on those who may serve as a member of the MCMHB and also sets criteria for removal of MCMHB members. The Milwaukee County board of supervisors (county board) must arrange for payment from the Milwaukee County mental health budget of expenses of the MCMHB under an agreement between the Milwaukee County board and DHS.

The bill requires the MCMHB to fulfill duties including the following: overseeing the provision of mental health programs and services in Milwaukee County; making the final determination on mental health policy in Milwaukee County; replacing the Milwaukee County board of supervisors (county board) in all mental health functions typically performed by a county board; and attempting to achieve costs savings in the provision of mental health programs and services in Milwaukee County. The MCMHB must facilitate delivery of mental health services in an efficient and effective manner by committing to community–based, person–centered, recovery–oriented, mental health systems; maximizing comprehensive community–based services; prioritizing access to community–based services and reducing reliance on institutional and inpatient care; protecting the personal liberty of individuals experiencing mental illness so that they may be treated in the least restrictive environment to the greatest extent possible; providing early intervention to minimize the length and depth of psychotic and other mental health episodes; diverting people experiencing mental illness from the corrections system when appropriate; and maximizing use of mobile crisis units and crisis intervention training. Under the bill, any contract related to mental health with a value of at least $100,000, to which Milwaukee County is a party, may take effect only if the MCMHB does not vote to reject the contract within 14 days after the contract is signed or countersigned by the county executive.

Under the bill, the MCMHB must allocate moneys for mental health functions, programs, and services in Milwaukee County within a total budget amount which is incorporated into the Milwaukee County budget by the county board. The bill sets the total budget amount for each fiscal year to be the sum of a base budget amount equal to $177,425,000 and any amount of unexpended moneys held by the Milwaukee County treasurer in a mental health reserve fund mandated by the bill, subject to the following adjustments:

1) The bill requires the Milwaukee County treasurer to hold in a mental health reserve fund any moneys that were appropriated, but not expended, in a fiscal year

for mental health functions, programs, and services in Milwaukee County, and specifies that moneys in the reserve fund may be expended only for such functions, programs, and services. If in the fiscal year previous to the fiscal year for which the budget is being determined, the county treasurer is holding any such unexpended moneys in the mental health reserve fund, the base budget amount for the fiscal year for which the budget is being determined is decreased by the amount of those unexpended moneys.

2) If there are no moneys in the mental health reserve fund, the MCMHB requests a mental health budget increase from the Milwaukee County executive, and the Milwaukee County executive approves the mental health budget increase, the base budget amount, together with any increase under item 3), below, is increased to reflect the percentage change in a certain consumer price index during the calendar year preceding the fiscal year for which the budget is being determined or, if that percentage change is positive and if there is a smaller positive percentage change in the property tax levy between the two calendar years preceding the fiscal year for which the budget is being determined, to reflect that smaller positive percentage change.

3) If the MCMHB is transferred jurisdiction of a function, service, or program, under a procedure specified in the bill, that it did not have jurisdiction over initially, the base budget amount is increased by the amount expended by Milwaukee County on that function, service, or program in the fiscal year before the fiscal year in which the function, program, or service is transferred. The increase applies for every fiscal year for which the MCMHB has jurisdiction over the function, service, or program.

Under the bill, the Milwaukee County board may not provide funding and the Milwaukee County executive may not approve funding, in any fiscal year, for mental health functions, services, and programs that is less than or more than the total budget amount calculated for that fiscal year, as described above.

The bill removes the jurisdiction over any mental health policy, functions, programs, or services, from the Milwaukee County board. The bill prohibits the Milwaukee County board from creating new mental health functions, programs, or services that are under its jurisdiction. Disputes between the Milwaukee County board and the MCMHB over whether a function, program, or service is a mental health function, program, or service are resolved by the secretary of DHS.

Under the bill, the Milwaukee County executive must nominate an individual to be the administrator of any division of the county department of human services that administers behavioral health for Milwaukee County. The administrator may be hired only upon approval of the MCMHB. The Milwaukee County executive determines the salary and benefits and job duties of this administrator, but the county executive may not assign the administrator any duties that are not related to mental health functions, programs, and services in Milwaukee County. The administrator may be removed by the MCMHB on its own by a vote of 8 of the members or, if the Milwaukee County executive has recommended removal, by a vote of 6 members of the MCMHB. The bill prohibits the Milwaukee County board from hiring, removing, or disciplining, setting the salary or benefits of, or assigning or removing job duties of this administrator.

Under current law, a county board has the primary responsibility for the well–being, treatment, and care of the mentally ill, developmentally disabled, alcoholic, and other drug dependent citizens residing within its county and for ensuring that those individuals in need of such emergency services found within its county receive immediate emergency services. The primary responsibility is limited, under current law, to the programs, services, and resources that the county board is reasonably able to provide within the limits of available state and federal funds and of county funds required to be appropriated to match state funds. Under the bill, in Milwaukee County, the MCMHB has primary responsibility for the well–being, treatment, and care of the mentally ill, alcoholic, and other drug dependent citizens residing within Milwaukee County and for ensuring that those individuals in need of such emergency services found within Milwaukee County receive emergency services. Under the bill, the Milwaukee County board retains the primary responsibility for the well–being, treatment, and care of developmentally disabled citizens residing in Milwaukee County, except where the responsibility is delegated explicitly to the MCMHB.

Under current mental health–related statutes, the county board has certain powers and duties. The bill makes changes to some powers and duties of the county board including the following:

1. Under current law, county departments of community programs among others, submit budget for services first to DHS. DHS submits a model of the contract containing the allocation of funds to the county board, which must approve the contract. Currently, the county board may appropriate moneys not used to match state funds. The bill requires the department to submit contracts related to mental health in Milwaukee County to the MCMHB.

2. Current law allows DHS to withhold a portion of the appropriation allocated to certain county departments, including the county department of community programs, for certain reasons, including duplicative services, inconsistency with federal statutes or regulations, and inconsistency with the contract with the county department. Under current law the county department affected by the withholding of the appropriation, may submit to the county board a plan to rectify the deficiency that prompted the withholding. The county board may approve or amend the plan and submit the plan to DHS. Under the bill, if the withholding is related to mental health in Milwaukee County, the county department submits the report to the MCMHB and the MCMHB approves or amends the plan for submittal to DHS.

3. Under current law the county board of supervisors must establish a citizen advisory committee to the county departments, including the county department of community programs, which advises the county department in the formation of the budget. The county board determines membership on the board, which must include representatives of persons receiving services, providers of services, and citizens, and selects the chairperson of the committee. Under current law, the establishment of a citizen advisory committee is not required if the if the county board of supervisors submits a report to DHS on the open public participation process it used to obtain advice on the budget. Under the bill, the MCMHB takes the actions of the county

board of supervisors, as applicable, in either the establishment of the citizen advisory committee or the alternate open public participation report.

Insert 5-A

4. Under current law, every county home, infirmary, hospital, or similar institution must, subject to regulations approved by the county board, be managed by a board of trustees chosen by ballot by the county board. Current law specifies how the county board selects the trustees, fills vacancies on the board of trustees, removes trustees, and sets other requirements related to those trustees. The bill substitutes the MCMHB for the county board of supervisors in appointment, removal, and other requirements for trustees of county homes, infirmaries, hospitals, and similar institutions that provide mental health treatment in Milwaukee County.

5. Under current law, a county board must maintain as a segregated cash reserve an annual charge of 2 percent of the original cost of new construction or purchase or of the appraised value of existing infirmary structures and equipment. Under the bill, the MCMHB must ensure the maintenance of such a reserve for mental health infirmary structures and equipment in Milwaukee County.

6. Current law vests the management, operation, maintenance, and improvement of human services in Milwaukee County with a county department of human services under the jurisdiction, as to policy, of the county board. The bill assigns the jurisdiction of the Milwaukee County department of human services, as to mental health policy, to the Milwaukee County mental health board.

7. The bill removes from the Milwaukee County board of supervisors and assigns to the Milwaukee County mental health board certain powers and duties including the following: the duty to adopt policies regarding mental health and mental health institutions, programs, and services; the power to approve or disapprove contracts relating to mental health and mental health institutions, programs, and services; and the power to transfer any mental health–related human services program and the duty to transfer certain duties such as the management, operation, maintenance, and improvement of the county mental health complex to the county department of human services.

8. Under current law, the director and administrator of the Milwaukee County department of human services must submit certain annual reports to the county board. The bill requires reports on matters of mental health to be sent to the MCMHB. Disbursements applicable to mental health must be made in the manner that the MCMHB, instead of the Milwaukee County board, adopts.

9. Under current law, a county board of supervisors has powers and duties related to initiatives to provide coordinated services for children and families. The bill substitutes, in Milwaukee County, the MCMHB for the county board in those powers and duties.

10. Under current law, a county board may apply to initially participate in the Alzheimer's family and caregiver support program. The bill allows the MCMHB to apply. If Milwaukee County is selected to participate, the MCMHB, instead of the Milwaukee County board, must designate an agency to participate.

11. The bill requires the MCMHB, instead of the county board, to establish a county department of community programs to administer a community mental

health, developmental disabilities, alcoholism and drug abuse program, make appropriations to operate the program, and authorize the county department of community programs to apply for grants–in–aid. The bill gives to the MCMHB, instead of the county board, authority of approval of the appointment by the Milwaukee County executive of the county community programs board, which is a policy–making body. The bill allows the MCMHB to exercise certain powers and requires the MCMHB to perform duties that would normally be exercised or performed by the county board related to the county department of community programs and the county community programs board.

12. The bill requires the MCMHB, instead of the county board, to designate the appropriate county department, the local health department of the county, or another entity as the local lead agency to provide early intervention services.

The bill requires the MCMHB to submit annual reports to the Milwaukee County executive, the Milwaukee County board, and DHS. The bill requires the MCMHB to arrange for a study on alternate funding sources for mental health services and programs with the results to be submitted by March 1, 2016, to the Milwaukee County board, the Milwaukee County executive, and DHS. In addition, the bill requires the Legislative Audit Bureau to perform a financial and performance evaluation audit of the MCMHB and of the mental health functions, programs, and services in Milwaukee County by January 1, 2017, and then biennial audits

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

and biennially thereafter,

SECTION 1. 13.94 (1) (mg) of the statutes is created to read:

13.94 **(1)** (mg) No later than January 1, 2017, perform a financial and performance evaluation audit of the Milwaukee County mental health board and of mental health functions, programs, and services in Milwaukee County including a review of the effectiveness of the Milwaukee County mental health board and new policies implemented under that board in providing mental health services, a review of the expenditures of the Milwaukee County mental health board, a review of Milwaukee County's expenditures for mental health functions, programs, and services and the outcomes of those programs and services in the period after the formation of the Milwaukee County mental health board. The legislative audit

bureau shall file a copy of the audit report under this paragraph with the distributees specified in par. (b) and the Milwaukee County executive and the Milwaukee County board of supervisors. The audit under this paragraph does not count toward the limit of audits of a county in a calendar year in par. (m).

****NOTE: Do you want to make this audit a continuous requirement such as requiring a biennial audit after the initial audit?

SECTION 2. 15.07 (1) (b) 24. of the statutes is created to read:

15.07 **(1)** (b) 24. The Milwaukee County mental health board, subject to s. 15.195 (9).

SECTION 3. 15.07 (1) (cm) of the statutes is amended to read:

15.07 **(1)** (cm) The term of one member of the government accountability board shall expire on each May 1. The terms of the 3 members of the land and water conservation board appointed under s. 15.135 (4) (b) 2. shall expire on January 1. The term of the member of the land and water conservation board appointed under s. 15.135 (4) (b) 2m. shall expire on May 1 of an even–numbered year. The terms of the appraiser members of the real estate appraisers board and the terms of the auctioneer and auction company representative members of the auctioneer board shall expire on May 1 in an even–numbered year. The terms of the members of the cemetery board shall expire on July 1 in an even–numbered year. The term of the student member of the Board of Regents of the University of Wisconsin System who is at least 24 years old shall expire on May 1 of every even–numbered year. The terms of 6 of the members of the Milwaukee County mental health board appointed under s. 15.195 (9) (b) shall expire on May 1 of an even–numbered year.

SECTION 4. 15.07 (3) (bm) 7. of the statutes is created to read:

15.07 **(3)** (bm) 7. The Milwaukee County mental health board shall meet 4 times each year and may meet at other times on the call of the chairperson or a majority of the board's members.

SECTION 5. 15.195 (9) of the statutes is created to read:

15.195 **(9)** MILWAUKEE COUNTY MENTAL HEALTH BOARD. (a) There is created a Milwaukee County mental health board, which is attached to the department of health services under s. 15.03.

(b) Subject to par. (d), the board shall consist of the following 11 voting members appointed for 4–year terms except for the members under subds. 10. and 11.:

1. A psychiatrist or psychologist who is suggested by the Milwaukee County board of supervisors. The Milwaukee County board of supervisors shall solicit suggestions for psychiatrists and psychologists from organizations including the Wisconsin Medical Society, the Medical Society of Milwaukee, the Wisconsin Psychological Association, and the Wisconsin Association of Family and Children's Agencies for individuals who specialize in a full continuum of behavioral health services for children. The Milwaukee County board of supervisors shall suggest to the governor 4 psychiatrists and psychologists for this board membership position.

2. A psychiatrist or psychologist who is suggested by the Milwaukee County board of supervisors. The Milwaukee County board of supervisors shall solicit suggestions for psychiatrists and psychologists from organizations including the Wisconsin Medical Society, the Medical Society of Milwaukee, the Wisconsin Psychological Association, and the Milwaukee Co–occurring Competency Cadre for individuals who specialize in a full continuum of behavioral health services for adults. The Milwaukee County board of supervisors shall suggest to the governor 4 psychiatrists and psychologists for this board membership position.

3. A representative of the community who is a consumer of mental health services and who is suggested by the Milwaukee County board of supervisors. The Milwaukee County board of supervisors shall solicit suggestions for individuals who have experienced mental illness or substance abuse from organizations including Warmline, the Milwaukee Mental Health Task Force, and the Milwaukee Co–occurring Competency Cadre. The Milwaukee County board of supervisors shall suggest to the governor 4 representatives of the community for this board membership position.

4. A medical director who is suggested by the Milwaukee County executive. The Milwaukee County executive shall solicit suggestions from organizations including the Wisconsin Hospital Association for individuals who specialize in a full continuum of behavioral health and medical services including emergency detention, inpatient, residential, transitional, partial hospitalization, intensive outpatient, and wraparound community–based services. The Milwaukee County executive shall suggest to the governor 4 medical directors for this board membership position.

5. An individual specializing in finance and administration who is suggested by the Milwaukee County executive. The Milwaukee County executive shall solicit suggestions from organizations including the Wisconsin Hospital Association, the Wisconsin County Human Services Association, and the Public Policy Forum for individuals with experience in analyzing healthcare operating expenses, revenues, and reimbursement and expertise in financial restructuring for sustainability. The Milwaukee County executive shall suggest to the governor 4 individuals specializing in finance and administration for this board membership position.

6. A health care provider with experience in the delivery of substance abuse services who is suggested by the Milwaukee County executive. The Milwaukee County executive shall solicit suggestions from organizations including the Milwaukee Co–occurring Competency Cadre for health care providers specializing in providing substance abuse services. The Milwaukee County executive shall suggest to the governor 4 health care providers with experience in the delivery of substance abuse services for this board membership position.

7. An individual with legal expertise. The governor shall solicit suggestions from organizations including the Legal Aid Society of Milwaukee, Legal Action of Wisconsin, Community Justice Counsel, and Disability Rights Wisconsin for 4 individuals who have legal expertise specializing in emergency detention regulatory requirements including policies, procedures, provider responsibilities, and patient rights.

8. A health care provider representing community–based mental health service providers. The governor shall solicit suggestions from organizations including the Milwaukee Health Care Partnership, the Milwaukee Mental Health Task Force, and the Milwaukee Co–occurring Competency Cadre for 4 health care providers specializing in community–based, recovery–oriented, mental health systems.

9. An individual who is a consumer or family member representing community–based mental health service providers. The governor shall solicit suggestions from organizations including the Milwaukee Health Care Partnership, the Milwaukee Mental Health Task Force, and the Milwaukee Co–occurring Competency Cadre for 4 consumers and family members representing community–based mental health service providers.

10. An employee of the department of health services, as designated by the secretary of health services, who has direct knowledge of funding and systems, oversees the state mental health institutes, and is the official contact for the federal government on behavioral health issues or, if this individual is unavailable to serve on the board, the secretary of health services or his or her designee.

11. The chairperson of the Milwaukee Mental Health Task Force, or his or her designee.

(c) Subject to par. (d), the board shall consist of the following 2 nonvoting members appointed for 4–year terms:

1. A health care provider who is on the academic staff at a higher education institution. The governor shall solicit suggestions from the Medical College of Wisconsin for individuals specializing in community–based, recovery–oriented mental health systems, maximizing comprehensive community–based services, prioritizing access to community–based services and reducing reliance on institutional and inpatient care, protecting the personal liberty of individuals experiencing mental illness so that they may be treated in the least restrictive environment to the greatest extent possible, providing early intervention to minimize the length and depth of psychotic and other mental health episodes, diverting people from the corrections system, when appropriate, or maximizing the use of mobile crisis units and crisis intervention training.

2. A health care provider who is on the academic staff at a higher education institution. The governor shall solicit suggestions from the University of Wisconsin—Madison for individuals specializing in community–based, recovery–oriented mental health systems, maximizing comprehensive community–based services, prioritizing access to community–based services and

reducing reliance on institutional and inpatient care, protecting the personal liberty of individuals experiencing mental illness so that they may be treated in the least restrictive environment to the greatest extent possible, providing early intervention to minimize the length and depth of psychotic and other mental health episodes, diverting people from the corrections system, when appropriate, or maximizing the use of mobile crisis units and crisis intervention training.

(d) 1. The governor shall ensure that one of the members under par. (b) 1. and 2. is a psychologist.

2. When submitting suggestions for nominations of members under par. (b) the Milwaukee County executive and Milwaukee County board of supervisors shall attempt to ensure that individuals suggested are among the most–qualified and experienced in their field.

3. Members under par. (b) who are health care providers shall have experience in providing services to the population that is serviced by the Milwaukee County mental health system.

4. No member of the board may be an employee or contractor of Milwaukee County at the time of nomination.

5. No member of the board may be a lobbyist, as defined in s. 13.62 (11). No member of the board may directly or indirectly solicit or receive subscriptions or contributions for any partisan political party or any political purpose while appointed to the board. No member of the board may engage in any form of political activity calculated to favor or improve the chances of any political party or any person seeking or attempting to hold partisan office. No member of the board may hold an elected office. Any violation of this subdivision is adequate grounds for dismissal.

6. No member under par. (b) may serve more than 2 consecutive terms in a membership position for which suggestions for nomination are made by the same individual or entity, except that a member may serve 3 consecutive terms in a membership position for which suggestions for nomination are made by the same individual or entity if one of those 3 terms is for less than 2 years. An individual who has served 2 consecutive 4–year terms or 3 consecutive terms totalling less than 10 years is eligible to be suggested for nomination as a member under par. (b) after the individual has not served on the board for 12 months.

SECTION 6. 17.07 (3r) of the statutes is created to read:

17.07 **(3r)** (a) Notwithstanding sub. (3), a member of the Milwaukee County mental health board may be removed by any of the following:

1. The governor, for cause.

2. If the Milwaukee County executive suggested the member for nomination, the Milwaukee County executive, for neglect of duty, misconduct, malfeasance in office, failure to attend 4 board meetings in one year, or failure to attend 2 board meetings within one year without providing advance notice to the chairperson of the board.

3. If the Milwaukee County board of supervisors suggested the member for nomination, the Milwaukee County board of supervisors, for neglect of duty, misconduct, malfeasance in office, failure to attend 4 board meetings in one year, or failure to attend 2 board meetings within one year without providing advance notice to the chairperson of the board.

(b) Notwithstanding sub. (3), a member of the Milwaukee County mental health board shall be removed by the governor for engaging in an activity under s. 15.195 (9) (d) that disqualifies an individual from board membership.

SECTION 7. 20.435 (5) (kf) of the statutes is created to read:

20.435 **(5)** (kf) *Milwaukee County mental health board.* All moneys received under s. 51.41 (5) (b) for the general program operations of Milwaukee County mental health board.

SECTION 8. 46.031 (2) of the statutes is amended to read:

46.031 **(2)** ASSESSMENT OF NEEDS. Before developing and submitting a proposed budget to the county executive or county administrator or the county board or the Milwaukee County mental health board, the county departments listed in sub. (1) shall assess needs and inventory resources and services, using an open public participation process.

SECTION 9. 46.031 (2g) (a) of the statutes is amended to read:

46.031 **(2g)** (a) The department shall annually submit to the county board of supervisors in a county with a single–county department, the Milwaukee County mental health board in Milwaukee County for matters related to mental health, or the county boards of supervisors in counties with a multicounty department a proposed written contract containing the allocation of funds and such administrative requirements as necessary. The contract as approved may contain conditions of participation consistent with federal and state law. The contract may also include provisions necessary to ensure uniform cost accounting of services. Any changes to the proposed contract shall be mutually agreed upon. The county board of supervisors in a county with a single–county department, the Milwaukee County mental health board in Milwaukee County for matters related to mental health, or the county boards of supervisors in counties with a multicounty department shall approve the contract before January 1 of the year in which it takes effect unless the department grants an extension. The county board of supervisors in a county with

a single–county department, the Milwaukee County mental health board in Milwaukee County, or the county boards of supervisors in counties with a multicounty department may designate an agent to approve addenda to any contract after the contract has been approved.

SECTION 10. 46.031 (2g) (b) of the statutes is amended to read:

46.031 **(2g)** (b) The department may not approve contracts for amounts in excess of available revenues. The county board of supervisors in a county with a single–county department, the Milwaukee County mental health board in Milwaukee County for matters related to mental health, or the county boards of supervisors in counties with a multicounty department may appropriate funds not used to match state funds under ss. 46.495 (1) (d) and 51.423. Actual expenditure of county funds shall be reported in compliance with procedures developed by the department, and shall comply with standards guaranteeing quality of care comparable to similar facilities.

SECTION 11. 46.031 (2r) (b) of the statutes is amended to read:

46.031 **(2r)** (b) If the department withholds a portion of the allocable appropriation under par. (a), the county department affected by the action of the department may submit to the county board of supervisors in a county with a single–county department or to its designated agent, to the Milwaukee County mental health board if related to mental health in Milwaukee County, or to the county boards of supervisors in counties with a multicounty department or their designated agents a plan to rectify the deficiency found by the department. The county board of supervisors or its designated agent in a county with a single–county department, the Milwaukee County mental health board if related to mental health, or the county boards of supervisors in counties with a multicounty department or

their designated agents may approve or amend the plan and may submit for departmental approval the plan as adopted. If a multicounty department is administering a program, the plan may not be submitted unless each county board of supervisors which participated in the establishment of the multicounty department, or its designated agent, adopts it.

SECTION 12. 46.031 (3) (a) of the statutes is amended to read:

46.031 **(3)** (a) *Citizen advisory committee.* Except as provided in par. (b), the county board of supervisors of each county, the Milwaukee County mental health board, as applicable, or the county boards of supervisors of 2 or more counties jointly shall establish a citizen advisory committee to the county departments under ss. 46.215, 46.22, 46.23, 51.42, and 51.437. The citizen advisory committee shall advise in the formulation of the budget under sub. (1). Membership on the committee shall be determined by the county board of supervisors in a county with a single–county committee, the Milwaukee County mental health board, as applicable, or by the county boards of supervisors in counties with a multicounty committee and shall include representatives of those persons receiving services, providers of service and citizens. A majority of the members of the committee shall be citizen and service consumers. The committee's membership may not consist of more than 25% county supervisors, nor of more than 20% service providers. The chairperson of the committee shall be appointed by the county board of supervisors establishing it or by the Milwaukee County mental health board, if it establishes the committee. In the case of a multicounty committee, the chairperson shall be nominated by the committee and approved by the county boards of supervisors establishing it. The county board of supervisors in a county with a single–county committee or the county boards of supervisors in counties with a multicounty committee may designate an

agent to determine the membership of the committee and to appoint the committee chairperson or approve the nominee.

SECTION 13. 46.031 (3) (b) of the statutes is amended to read:

46.031 **(3)** (b) *Alternate process.* The county board of supervisors, the Milwaukee County mental health board, as applicable, or the boards of 2 or more counties acting jointly may submit a report to the department on the open public participation process used under sub. (2). The county board of supervisors or the Milwaukee County mental health board may designate an agent, or the boards of 2 or more counties acting jointly may designate an agent, to submit the report. If the department approves the report, establishment of a citizen advisory committee under par. (a) is not required.

SECTION 14. 46.031 (3) (c) of the statutes is amended to read:

46.031 **(3)** (c) *Yearly report.* The county board of supervisors or its designated agent, the Milwaukee County mental health board, as applicable, or the boards of 2 or more counties acting jointly or their designated agent, shall submit to the department a list of members of the citizen advisory committee under par. (a) or a report on the open public participation process under par. (b) on or before July 1 of each year.

SECTION 15. 46.034 (3) of the statutes is amended to read:

46.034 **(3)** With the agreement of the affected county board of supervisors in a county with a single–county department, the Milwaukee County mental health board, as applicable, or boards of supervisors in counties with a multicounty department, effective for the contract period beginning January 1, 1980, the department may approve a county with a single–county department or counties participating in a multicounty department to administer a single consolidated aid

consisting of the state and federal financial aid available to that county or those counties from appropriations under s. 20.435 (7) (b) and (o) for services provided and purchased by county departments under ss. 46.215, 46.22, 46.23, 51.42, and 51.437. Under such an agreement, in the interest of improved service coordination and effectiveness, the county board of supervisors in a county with a single–county department, the Milwaukee County mental health board, as applicable, or county boards of supervisors in counties with a multicounty department may reallocate among county departments under ss. 46.215, 46.22, 46.23, 51.42, and 51.437 funds that otherwise would be specified for use by a single county department. The budget under s. 46.031 (1) shall be the vehicle for expressing the proposed use of the single consolidated fund by the county board of supervisors in a county with a single–county department, the Milwaukee County mental health board, as applicable, or county boards of supervisors in counties with a multicounty department. Approval by the department of this use of the fund shall be in the contract under s. 46.031 (2g). Counties that were selected by the department to pilot test consolidated aids for contract periods beginning January 1, 1978, may continue or terminate consolidation with the agreement of the affected county board of supervisors in a county with a single–county department, the Milwaukee County mental health board, or county boards of supervisors in counties with a multicounty department.

SECTION 16. 46.175 of the statutes is amended to read:

46.175 County institutions: minimum standards. Notwithstanding any other provision of law, any county currently operating an institution established under s. 49.70, 49.71, 49.72, 51.08, or 51.09 may, by resolution of the county board or, in Milwaukee County for institutions providing mental health treatment, the Milwaukee County mental health board, designate such institution or distinct part

of such institution as a facility to be operated under s. 50.02, 50.03 or 50.33. Any county institution or part thereof, where so designated, shall be required to meet those licensure standards established by the department for the type of facility designated by the county. Any designation under this section may be made only if such designation will not result in any additional cost to the state.

SECTION 17. 46.18 (1) of the statutes is amended to read:

46.18 **(1)** TRUSTEES. Every county home, infirmary, hospital, or similar institution, shall, subject to regulations approved by the county board except in Milwaukee County for county homes, infirmaries, hospitals, or institutions providing mental health treatment, be managed by a board of trustees, electors of the county, chosen by ballot by the county board. In Milwaukee County, every county home, infirmary, hospital, or similar institution that provides mental health treatment shall, subject to standards and procedures adopted by the Milwaukee County mental health board, be managed by a board of trustees, electors of the county, chosen by ballot by the Milwaukee County mental health board. At its annual meeting, the county board or the Milwaukee County mental health board, if applicable, shall appoint an uneven number of trustees, from 3 to 9 at the option of the board, for staggered 3–year terms ending the first Monday in January. Any vacancy shall be filled for the unexpired term by the county board or the Milwaukee County mental health board, as applicable; but the chairperson of the county board may appoint a trustee to fill the vacancy until the county board acts except for boards of trustees appointed by the Milwaukee County mental health board for which the chairperson of the Milwaukee County mental health board may appoint a trustee to fill the vacancy until the entire Milwaukee County mental health board acts.

SECTION 18. 46.18 (3) of the statutes is amended to read:

46.18 **(3)** REMOVAL OF TRUSTEE. Any trustee may be removed from office for misconduct or neglect, by a two–thirds vote of the county board or of the Milwaukee County mental health board, as applicable, on due notice in writing and hearing of the charges against the trustee.

SECTION 19. 46.18 (4) of the statutes is amended to read:

46.18 **(4)** OATH OF OFFICE, BOND, EXPENSES, PAY. Each trustee shall take and file the official oath and execute and file an official bond to the county, in the amount determined by the county board, or the Milwaukee County mental health board, as applicable, and the sufficiency of the sureties shall be approved by the chairperson of the board. Each trustee shall be reimbursed for traveling expenses necessarily incurred in the discharge of the duties, and shall receive the compensation fixed by the county board or the Milwaukee County mental health board, as applicable, unless otherwise provided by law.

SECTION 20. 46.18 (11) of the statutes is amended to read:

46.18 **(11)** COUNTY APPROPRIATION. The county board or, in Milwaukee County, the Milwaukee County mental health board, as applicable, shall annually appropriate for operation and maintenance of each such institution not less than the amount of state aid estimated by the trustees to accrue to said institution; or such lesser sum as may be estimated by the trustees to be necessary for operation and maintenance.

SECTION 21. 46.18 (12) of the statutes is amended to read:

46.18 **(12)** ADDITIONAL DUTIES. The county board or the Milwaukee County mental health board, as applicable, may provide that the trustees and superintendent of any institution shall be the trustees and superintendent of any other institution.

SECTION 22. 46.18 (13) of the statutes is amended to read:

46.18 **(13)** BUILDING RESERVE FUND. ~~The~~ Except in Milwaukee County, the county board shall maintain as a segregated cash reserve an annual charge of 2% of the original cost of new construction or purchase or of the appraised value of existing infirmary structures and equipment. In Milwaukee County, the Milwaukee County mental health board, for mental health infirmary structures and equipment, shall ensure the maintenance, as a segregated cash reserve, of an annual charge of 2 percent of the original cost of new construction or purchase or of the appraised value of existing mental health infirmary structures and equipment. If the infirmary or any of its equipment is replaced, any net cost of replacement in excess of the original cost is subject to an annual charge of 2%. No contributions to the cash reserve in excess of the amount required under this subsection may be included in the calculation under s. 49.726 (1). The county board, except the Milwaukee County board, may from time to time appropriate from such reserve sums to be expended solely for the enlargement, modernization or replacement of such infirmary and its equipment. In Milwaukee County, the Milwaukee County mental health board may require to be appropriated from reserve sums for mental health infirmaries to be expended for the enlargement, modernization, or replacement of a mental health infirmary and its equipment.

SECTION 23. 46.18 (14) of the statutes is amended to read:

46.18 **(14)** INCENTIVE PAYMENTS TO PATIENTS IN MENTAL HOSPITALS. The county board or, in Milwaukee County, the Milwaukee County mental health board may authorize the board of trustees of any county mental hospital to establish a program of incentive payments so as to provide incentive and encouragement to patients by the disbursement of small weekly payments but not restricted to work allowances.

Incentive payments paid to inmates shall not be included as costs in arriving at the per capita rate for state aids or charges to other counties and the state for care of inmates. ~~In counties having a population of 500,000 or more the county board of supervisors may establish a similar program.~~

SECTION 24. 46.18 (15) of the statutes is amended to read:

46.18 **(15)** JOINT OPERATION OF HEALTH-RELATED SERVICE. If the county board of supervisors, or the Milwaukee County mental health board, as applicable, so authorizes, the trustees of the county hospital may, together with a private or public organization or affiliation, organize, establish and participate in the governance and operation of an entity to operate, wholly or in part, any health-related service, may participate in the financing of the entity and may provide administrative and financial services or resources for its operation on terms prescribed by the county board of supervisors or the Milwaukee County mental health board, as applicable.

****NOTE: Under section 46.19 of the statutes, which is no longer in this bill, the trustees, who are appointed by the Milwaukee County mental health board for institutions providing mental health treatment may hire and remove a superintendent of a mental health institution. The trustees prescribe the duties of that superintendent. Section 46.19, however, requires the county board to fix the salaries of the superintendent, visiting physician, and all necessary additional officers of each county institution. I don't believe this requirement to set salaries should be transferred to the Milwaukee County mental health board. Please advise whether you want the county board to still have control over these salaries.

Insert 22-14

SECTION 25. 46.21 (2) (a), (j), (k), (m) and (q), (2m) (a) and (b) 1. (intro.), (3), (3g), (3r), (4), (4m) (a) and (b) and (6) of the statutes are amended to read:

46.21 **(2)** (a) Shall adopt policies for the management, operation, maintenance and improvement of the county hospital; the detention center; the probation section of the children's court center; the provision and maintenance of the physical facilities for the children's court and its intake section under the supervision and operation of the judges assigned to exercise jurisdiction under chs. 48 and 938 and as provided

in s. 938.06 (1); ~~the mental health complex;~~ the county department of human services; the central service departments; and all buildings and land used in connection with any institution under this section except a mental health institution. The powers and duties of the county board of supervisors are policy forming only, and not administrative or executive. The county board of supervisors may not form policies regarding mental health or mental health institutions, programs, or services. The Milwaukee County mental health board shall adopt the policies under this paragraph regarding mental health and mental health institutions, programs, and services.

(j) May exercise approval or disapproval power over contracts and purchases of the director that are for $50,000 or more, except that the county board of supervisors may not exercise approval or disapproval power over any personal service contract or over any contract or purchase of the director that relates to community living arrangements, adult family homes, or foster homes and that was entered into pursuant to a contract under s. 46.031 (2g) or 301.031 (2g), regardless of whether the contract mentions the provider, except as provided in par. (m). The county board of supervisors may not exercise approval or disapproval power over any contract relating to mental health or mental health institutions, programs, or services. This paragraph does not preclude the county board of supervisors from creating a central purchasing department for all county purchases that are not related to mental health.

(k) Shall make sufficient appropriation annually for the support, maintenance, salaries, repairs and improvements to the county department of human services and the institutions, except for mental health institutions. The appropriations shall be used subject to the order of the director or administrator and as the policies adopted

by the county board of supervisors provide. The director or administrator may not incur any expense or contract for new buildings, additions to present buildings or the purchase of land until the county board of supervisors, or the Milwaukee County mental health board, as applicable, has appropriated or provided for the money to defray such expense.

(m) May establish and maintain in connection with such county hospital, an emergency unit or department for the treatment, subject to such rules as may be prescribed by the county board of supervisors, of persons in the county who may meet with accidents or be suddenly afflicted with illness not contagious; provided that medical care and treatment shall only be furnished in such unit or department until such time as the patient may be safely removed to another hospital or to his or her place of abode, or regularly admitted to the county hospital. The county board of supervisors may also contract with any private hospital or nonprofit hospital within the county for the use of its facilities and for medical service to be furnished by a licensed physician or physicians to patients who require emergency medical treatment or first aid as a result of any accident, injury or sudden affliction of illness occurring within the county, except that reasonable compensation may only be authorized until the patient is regularly admitted as an inpatient or safely removed to another hospital or to his place of abode. In this paragraph, "hospital" includes, without limitation due to enumeration, public health centers, medical facilities and general, tuberculosis, ~~mental,~~ chronic disease and other types of hospitals and related facilities, such as laboratories, outpatient departments, nurses' home and training facilities, and central service facilities operated in connection with hospitals. In this paragraph, "hospital" does not include any hospital furnishing primarily domiciliary care. In this paragraph "nonprofit hospital" means any

hospital owned and operated by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(q) May, together with a private or public organization or affiliation, organize, establish and participate in the governance and operation of an entity to operate, wholly or in part, any health–related service except a mental health–related service, may participate in the financing of the entity and may provide administrative and financial services or resources for its operation on terms prescribed by the county board of supervisors. The Milwaukee County mental health board may, together with a private or public organization or affiliation, organize, establish, and participate in the governance and operation of an entity to operate, wholly or in part, any mental health–related service, may participate in the financing of the entity, and may provide administrative and financial services or resources for its operation.

(2m) (a) *Creation.* The management, operation, maintenance and improvement of human services in a county with a population of ~~500,000~~ 750,000 or more is vested in a county department of human services under the jurisdiction, as to policy, of the county board of supervisors or, as to mental health policy, the Milwaukee County mental health board. The county department of human services shall consist of the director appointed under sub. (1m), any division administrator appointed under sub. (4) or s. 51.41 (8), and necessary personnel appointed by the director or appointed by a division administrator and approved by the director.

(b) 1. (intro.) The county board of supervisors or, in matters related to mental health, the Milwaukee County mental health board may transfer the powers and duties of any human services program under the control of the county and shall transfer all of the following to the county department of human services:

(3) POWERS AND DUTIES OF THE DIRECTOR. All of the administrative and executive powers and duties of managing, operating, maintaining and improving the county department of human services and other institutions and departments that the county board of supervisors or, in matters of mental health, the Milwaukee County mental health board may place under the jurisdiction of the director are vested in the director, subject to the policies and in accordance with the principles adopted by the county board of supervisors or, in matters of mental health, the Milwaukee County health board.

(3g) POWERS AND DUTIES OF THE ADMINISTRATOR. All of the administrative and executive powers and duties of managing, operating, maintaining and improving the county hospital and other institutions and departments that the county board of supervisors or, in matters of mental health, the Milwaukee County mental health board may place under the jurisdiction of the administrator are vested in the administrator, subject to the policies and in accordance with the principles adopted by the county board of supervisors or, in matters of mental health, the Milwaukee County mental health board.

(3r) OTHER POWERS AND DUTIES. The county board of supervisors or, in matters of mental health, the Milwaukee County mental health board may place under the jurisdiction of county entities not specified under this section the administrative and executive powers and duties of managing, operating, maintaining and improving institutions and departments or other responsibilities that are specified in sub. (2), including functions related to the central service departments and buildings and land used in connection with any institution under sub. (2).

(4) MANAGEMENT PERSONNEL. ~~The~~ Except as provided in s. 51.41 (8), the director may appoint personnel to manage the county department of human services and the

administrator may appoint personnel to manage the county hospital, in accordance with ordinances of the county board of supervisors.

(4m) (a) The county hospitals and county sanatoriums of a county with a population of ~~500,000~~ 750,000 or more shall be devoted to hospital service and the treatment of patients upon such terms and conditions as the county board of supervisors or, in matters of mental health, the Milwaukee County mental health board establishes. The hospitals and sanatoriums may be utilized for instruction of medical students, physicians and nurses and for scientific and clinical research that will promote the welfare of the patients and assist the application of science to the alleviation of human suffering.

(b) Professional staff responsible for the care of patients under this subsection may submit bills for professional services under policies adopted by the county board of supervisors or under mental health policies adopted by the Milwaukee County mental health board.

(6) REPORTS; EXPENDITURES. The director and the administrator shall submit annually to the county board of supervisors, or to the Milwaukee County mental health board in matters of mental health, reports, including itemized statements of receipts and disbursements, at the times and in the manner that the county board of supervisors or Milwaukee County mental health board specifies and as are required to comply with applicable federal statutes and regulations and state statutes and rules. Disbursements shall be made in the manner that the county board of supervisors or Milwaukee County mental health board, as applicable, adopts, consistent with sound accounting and auditing procedure and with applicable federal statutes and regulations, state statutes and rules and requirements of the county auditor and county department of administration.

SECTION 26. 46.56 (1) (a) of the statutes is amended to read:

46.56 **(1)** (a) "Administering agency" means a department designated by a county board of supervisors, by the Milwaukee County mental health board in Milwaukee County, or by a tribe to administer an initiative.

SECTION 27. 46.56 (2) (a) of the statutes, as affected by 2013 Wisconsin Act 20, is amended to read:

46.56 **(2)** (a) Except as provided in par. (b), if a county board of supervisors or the Milwaukee County mental health board establishes an initiative under s. 59.53 (7) or if a tribe establishes an initiative, the county board, Milwaukee County mental health board, or tribe shall appoint a coordinating committee and designate an administering agency. The initiative may be funded by the county or tribe or the county board of supervisors, Milwaukee County mental health board, or tribe may apply for funding by the state in accordance with sub. (15).

SECTION 28. 46.56 (2) (b) of the statutes, as created by 2013 Wisconsin Act 20, is amended to read:

46.56 **(2)** (b) A county may enter into an agreement with one or more other counties or tribes to establish an initiative and a tribe may enter into an agreement with one or more counties or tribes to establish an initiative. The parties to the agreement shall designate in the agreement a single lead administrative county or lead administrative tribe. The county board of the lead administrative county, the Milwaukee County mental health board, if Milwaukee County is the lead administrative county, or the lead administrative tribe shall appoint a coordinating committee and designate an administering agency. The initiative may be funded by the participating entities, or the county board of supervisors of the lead administrative county, the Milwaukee County mental health board, if Milwaukee

County is the lead administrative county, or the lead administrative tribe may apply for funding by the state in accordance with sub. (15).

SECTION 29. 46.56 (3) (b) 11. of the statutes is amended to read:

46.56 **(3)** (b) 11. Representatives of the county board or, in Milwaukee County, the Milwaukee County mental health board or, for an initiative established by a tribe, representatives of the elected governing body of the tribe.

SECTION 30. 46.56 (4) (d) of the statutes, as affected by 2013 Wisconsin Act 20, is amended to read:

46.56 **(4)** (d) If the county board of supervisors, Milwaukee County mental health board, or tribe or a multi–entity initiative decides to seek state funding under sub. (15), develop the application in cooperation with the coordinating committee.

SECTION 31. 46.56 (15) (b) (intro.) of the statutes, as affected by 2013 Wisconsin Act 20, is amended to read:

46.56 **(15)** (b) (intro.) In order to apply for funds under this subsection, the county board of supervisors, Milwaukee County mental health board, or tribe or, for a multi–entity initiative, the county board of the lead administrative county, the Milwaukee County mental health board, if Milwaukee County is the lead administrative county, or the lead administrative tribe shall do all of the following:

SECTION 32. 46.87 (3) (a) of the statutes is amended to read:

46.87 **(3)** (a) A county board or the Milwaukee County mental health board may apply to initially participate in the program created under this section by submitting to the department a one–time letter of intent to participate which includes a description of the program and services related to Alzheimer's disease which the county board or the Milwaukee County mental health board intends to provide.

****NOTE: The program under s. 46.87 is the Alzheimer's family and caregiver support program. Since developmental disability is the primary responsibility of the county board of supervisors and since there is dispute over whether Alzheimer's disease is considered a mental illness, you may want to consider leaving this program under the jurisdiction of the county board of supervisors, if Milwaukee County participates.

SECTION 33. 46.87 (3) (c) (intro.) of the statutes is amended to read:

46.87 **(3)** (c) (intro.) The county board for each county selected to participate, or the Milwaukee County mental health board if Milwaukee County is selected to participate, shall designate one of the following as the administering agency for the program:

SECTION 34. 46.87 (4) of the statutes is amended to read:

46.87 **(4)** If a county board does not submit an application under sub. (3) (a) by January 1, 1986, the department shall make that county's allocation available to a private nonprofit organization, as defined under s. 108.02 (19), to administer the program created under this section and shall select the organization according to criteria promulgated by rule. An organization selected as the administering agency under this subsection shall continue to be eligible to receive the county's allocation unless the county board or the Milwaukee County mental health board subsequently submits to the department a letter of intent to participate and receives approval of its proposed program.

SECTION 35. 46.87 (7) (intro.) of the statutes is amended to read:

46.87 **(7)** (intro.) The county board or the Milwaukee County mental health board shall notify the department if any of the following occurs:

SECTION 36. 46.87 (7) (b) of the statutes is amended to read:

46.87 **(7)** (b) The county board or the Milwaukee County mental health board intends to terminate participation in the program.

SECTION 37. 46.87 (7) (c) of the statutes is amended to read:

46.87 **(7)** (c) The county's program and services related to Alzheimer's disease contain a substantial difference, as defined by rule, from the description of the county's program and services contained in the county board's or the Milwaukee County mental health board's letter of intent most recently submitted to the department under sub. (3) (a).

SECTION 38. 51.08 of the statutes is amended to read:

51.08 Milwaukee County Mental Health Complex. Any county having a population of 500,000 or more may, pursuant to s. 46.17, establish and maintain a county mental health complex. The county mental health complex shall be a hospital devoted to the detention and care of drug addicts, alcoholics, chronic patients and mentally ill persons whose mental illness is acute. Such hospital shall be governed pursuant to s. 46.21. Treatment of alcoholics at the county mental health complex is subject to approval by the department under s. 51.45 (8). The county mental health complex established pursuant to this section is subject to rules promulgated by the department concerning hospital standards. The county board may not sell the county mental health complex under this section without approval of the Milwaukee County mental health board.

SECTION 39. 51.20 (18) (a) of the statutes is amended to read:

51.20 **(18)** (a) Unless previously fixed by the county board of supervisors or the Milwaukee County mental health board in the county in which the examination is held, the examiners shall receive a fee as fixed by the court for participation in commitment proceedings, and reasonable reimbursement for travel expenses.

SECTION 40. 51.41 of the statutes is created to read:

51.41 Milwaukee County mental health; Milwaukee County mental health board.

(1) DUTIES OF THE BOARD. The Milwaukee County mental health board shall do all of the following:

(a) Oversee the provision of mental health programs and services in Milwaukee County.

(b) Allocate moneys for mental health functions, programs, and services in Milwaukee County within the budget amount set in sub. (3) (a).

(c) Make the final determination on mental health policy in Milwaukee County.

(d) Replace the Milwaukee County board of supervisors in all mental health functions that are typically performed by a county board of supervisors.

(e) Facilitate delivery of mental health services in an efficient and effective manner by making a commitment to all of the following:

1. Community–based, person–centered, recovery–oriented, mental health systems.

2. Maximizing comprehensive community–based services.

3. Prioritizing access to community–based services and reducing reliance on institutional and inpatient care.

4. Protecting the personal liberty of individuals experiencing mental illness so that they may be treated in the least restrictive environment to the greatest extent possible.

5. Providing early intervention to minimize the length and depth of psychotic and other mental health episodes.

6. Diverting people experiencing mental illness from the corrections system when appropriate.

7. Maximizing use of mobile crisis units and crisis intervention training.

(f) Attempt to achieve costs savings in the provision of mental health programs and services in Milwaukee County.

(2) POWERS OF THE BOARD. The Milwaukee County mental health board may request information from the Milwaukee Mental Health Complex, a county department under s. 46.21 or 51.42 or any other Milwaukee County governmental unit that possesses mental health information in order to fulfill its duties of overseeing mental health functions, programs, and services in Milwaukee County.

(3) MILWAUKEE COUNTY MENTAL HEALTH BUDGET. (a) 1. The Milwaukee County board of supervisors shall incorporate into the budget for Milwaukee County for a fiscal year a total amount of funding for mental health functions, services, and programs that is equal to the sum of any amount held in the mental health reserve fund as described under par. (c) for the fiscal year previous to the fiscal year for which the budget is being determined and the base budget amount of $177,425,000, adjusted as provided in subds. 2. to 4.

2. The base budget amount under subd. 1. shall be decreased by an amount equal to any amount held in the mental health reserve fund as described under par. (c) for the fiscal year previous to the fiscal year for which the budget is being determined.

3. If there are no moneys in the mental health reserve fund, the Milwaukee County mental health board makes a request to the Milwaukee County executive for a mental health budget increase, and the Milwaukee County executive approves the mental health budget increase, the base budget amount under subd. 1., together with any increase under subd. 4., shall be increased to reflect one of the following:

a. Unless subd. 3. b. applies, the percentage change in the consumer price index for all urban consumers, U.S. city average, as determined by the U.S. department of

labor, during the calendar year preceding the fiscal year for which the budget is being determined.

b. If the percentage change described in subd. 3. a. is positive and if there was a smaller positive percentage change in the property tax levy for Milwaukee County between the 2 calendar years preceding the fiscal year for which the budget is being determined, that smaller positive percentage change.

4. If the Milwaukee County mental health board transfers to itself jurisdiction of a function, service, or program under sub. (4) (b) that it did not have jurisdiction over on the effective date of this subdivision .... [LRB inserts date], the base budget amount under subd. 1. shall be increased by an amount equal to the amount expended by Milwaukee County on that function, service, or program in the fiscal year before the fiscal year in which the function, program, or service is transferred. An increase under this subdivision applies for every fiscal year the Milwaukee County mental health board has jurisdiction over that function, service, or program.

(b) The Milwaukee County board of supervisors may not in any fiscal year provide funding for and the Milwaukee County executive may not in any fiscal year approve funding for mental health functions, services, and programs that is less than or more than the total amount specified under par. (a) for that fiscal year.

(c) The treasurer of Milwaukee County shall hold any unexpended moneys in a fiscal year that had been appropriated for use for mental health functions, programs, and services in a mental health reserve fund. The moneys in the mental health reserve fund may be expended in any fiscal year only for mental health functions, programs, and services in Milwaukee County.

(4) JURISDICTION OF MILWAUKEE COUNTY BOARD. (a) The Milwaukee County board of supervisors has no jurisdiction over any mental health policy, functions,

programs, or services. The Milwaukee County board of supervisors may not create new mental health functions, programs, or services that are under the jurisdiction of the board of supervisors. Any dispute between the Milwaukee County board of supervisors and the Milwaukee County mental health board over whether a function, program, or service is a mental health function, program, or service under the jurisdiction of the Milwaukee County mental health board shall be resolved by the secretary of health services.

(b) The Milwaukee County mental health board may transfer jurisdiction over a Milwaukee County function, service, or program to itself that pertains to mental health or is highly integrated with mental health services and that is not under its jurisdiction by statute or by agreement with the Milwaukee County board of supervisors, by an affirmative vote of 8 of the voting Milwaukee County mental health board members if the secretary of health services approves the transfer.

(5) PAYMENT OF BOARD EXPENDITURES. (a) The Milwaukee County board of supervisors and the department shall enter an agreement for the payment of expenses of the Milwaukee County mental health board.

(b) The Milwaukee County board of supervisors shall arrange for the payment of expenses from the total budget amount under sub. (3) (a) according to the agreement under par. (a). All payments shall be credited to the appropriation account under s. 20.435 (5) (kf).

(6) COUNTY DEPARTMENT REQUIREMENTS. (a) A county department under s. 46.21 or 51.42 in Milwaukee County may not impede the Milwaukee County mental health board in performing its duties under this section or exercising its powers under this section.

(b) A county department under s. 46.21 or 51.42 in Milwaukee County shall respond to any requests for information from the Milwaukee County mental health board.

(7) REPORTS; STUDIES. (a) By March 1, 2015, and annually by March 1 thereafter, the Milwaukee County mental health board shall submit to the Milwaukee County executive, the Milwaukee County board of supervisors, and the department a report including a description of the funding allocations for Milwaukee County's mental health functions, services, and programs and a description of any improvements and efficiencies in those mental health functions, programs, and services. The department shall provide access to the report under this subsection to the public including posting the report on the department's Internet site.

(b) The Milwaukee County mental health board shall arrange for a study to be conducted on alternate funding sources for mental health services and programs including fee–for–service models, managed care models that integrate mental health services into the contracts with an increased offset through basic county allocation reduction, and other funding models. By March 1, 2016, the Milwaukee County mental health board shall submit to the Milwaukee County board of supervisors, the Milwaukee County executive, and the department a report of the results of the study.

(8) ADMINISTRATOR. (a) The Milwaukee County executive shall nominate an individual to be the administrator of any division of the department under s. 46.21 that administers behavioral health for Milwaukee County. The nominated individual may be hired as the administrator only upon approval of the Milwaukee County mental health board. If the county executive does not nominate an individual by June 1, 2015, the Milwaukee County mental health board may hire an

individual to be the administrator. Upon a vacancy in the position of administrator, if the county executive does not nominate an individual within 12 months of the date the position becomes vacant, the Milwaukee County mental health board may hire an individual to be the administrator.

(b) The Milwaukee County executive shall determine the salary and benefits and the job duties of the administrator. The county executive may not assign the administrator any duties that are not related to mental health functions, programs, and services in Milwaukee County.

(c) 1. The administrator under this subsection may be removed by the Milwaukee County mental health board by a vote of 8 members of that board.

2. The Milwaukee County executive may recommend removal of the administrator under this subsection to the Milwaukee County mental health board. If the county executive recommends removal under this subdivision, the Milwaukee County mental health board may remove the administrator upon a vote of 6 members of that board.

(d) The Milwaukee County board of supervisors may not hire, remove, or discipline; set the salary or benefits of, or assign or remove any job duties of the administrator under this subsection.

(9) MENTAL HEALTH CONTRACTS. Any contract related to mental health with a value of at least $100,000, to which Milwaukee County is a party may take effect only if the Milwaukee County mental health board does not vote to reject the contract within 14 days after the contract is signed or countersigned by the county executive.

****NOTE: This provision mirrors the language in s. 59.52 (31) (b) 1., which was created in 2013 Wisconsin Act 14.

SECTION 41. 51.42 (1) (b) of the statutes is amended to read:

51.42 **(1)** (b) *County liability.* The county board of supervisors except in Milwaukee County, has the primary responsibility for the well–being, treatment and care of the mentally ill, developmentally disabled, alcoholic and other drug dependent citizens residing within its county and for ensuring that those individuals in need of such emergency services found within its county receive immediate emergency services. In Milwaukee County, the Milwaukee County mental health board has the primary responsibility for the well–being, treatment and care of the mentally ill, alcoholic, and other drug dependent citizens residing within Milwaukee County and for ensuring that those individuals in need of such emergency services found within Milwaukee County receive immediate emergency services. The county board of supervisors of Milwaukee County has the primary responsibility for the well–being, treatment, and care of the developmentally disabled citizens residing within Milwaukee County, except where the responsibility is delegated explicitly under this section to the Milwaukee County mental health board, and for ensuring that developmentally disabled individuals in need of such emergency services found within Milwaukee County receive immediate emergency services. This primary responsibility is limited to the programs, services and resources that the county board of supervisors, or, as applicable, the Milwaukee County mental health board, is reasonably able to provide within the limits of available state and federal funds and of county funds required to be appropriated to match state funds. County liability for care and services purchased through or provided by a county department of community programs established under this section shall be based upon the client's county of residence except for emergency services for which liability shall be placed with the county in which the individual is found. For the purpose of establishing county liability, "emergency services" includes those services provided

under the authority of s. 55.05 (4), 2003 stats., or s. 55.06 (11) (a), 2003 stats., or s. 51.15, 51.45 (11) (a) or (b) or (12), 55.13, or 55.135 for not more than 72 hours. Nothing in this paragraph prevents recovery of liability under s. 46.10 or any other statute creating liability upon the individual receiving a service or any other designated responsible party, or prevents reimbursement by the department of health services for the actual cost of all care and services from the appropriation under s. 20.435 (7) (da), as provided in s. 51.22 (3).

SECTION 42. 51.42 (3) (a) of the statutes is amended to read:

51.42 **(3)** (a) *Creation.* Except as provided under s. 46.23 (3) (b), the county board of supervisors of any county except Milwaukee County, the Milwaukee County mental health board, or the county boards of supervisors of 2 or more counties, shall establish a county department of community programs on a single–county or multicounty basis to administer a community mental health, developmental disabilities, alcoholism and drug abuse program, make appropriations to operate the program and authorize the county department of community programs to apply for grants–in–aid under s. 51.423. The county department of community programs shall consist of a county community programs board, a county community programs director and necessary personnel.

SECTION 43. 51.42 (3) (ar) 8. of the statutes is amended to read:

51.42 **(3)** (ar) 8. By September 30, submit for inclusion as part of the proposed county budget to the Milwaukee County mental health board in Milwaukee County, to the county executive or county administrator, or, in those counties without a county executive or county administrator, directly to the county board of supervisors in a county with a single–county department of community programs or the county boards of supervisors in counties with a multicounty department of community

programs a proposed budget for the succeeding calendar year covering services, including active treatment community mental health center services, based on the plan required under subd. 5. The final budget shall be submitted to the department of health services.

SECTION 44. 51.42 (3) (ar) 14. of the statutes is amended to read:

51.42 **(3)** (ar) 14. If the county board of supervisors or, as applicable, the Milwaukee County mental health board establishes an initiative to provide coordinated services under s. 59.53 (7), participate in and may administer the initiative, including entering into any written interagency agreements or contracts.

SECTION 45. 51.42 (3) (b) of the statutes is amended to read:

51.42 **(3)** (b) *Other powers and duties.* The county board of supervisors of any county with a single–county department of community programs, the Milwaukee County mental health board, and the county boards of supervisors of counties with a multicounty department of community programs may designate the county department of community programs as the administrator of any other county health care program or institution, but the operation of such program or institution is not reimbursable under s. 51.423.

SECTION 46. 51.42 (4) (a) 2. (intro.) of the statutes is amended to read:

51.42 **(4)** (a) 2. (intro.) In any county with a county executive or county administrator and which has established a single–county department of community programs, the county executive or county administrator shall appoint, subject to confirmation by the Milwaukee County mental health board in Milwaukee County or the county board of supervisors, the county community programs board, which shall be only a policy–making body determining the broad outlines and principles governing the administration of programs under this section. A member of a county

community programs board appointed under this subdivision may be removed by the county executive or county administrator under the following circumstances:

SECTION 47. 51.42 (6m) (intro.) of the statutes is amended to read:

51.42 **(6m)** COUNTY COMMUNITY PROGRAMS DIRECTOR IN CERTAIN COUNTIES WITH A COUNTY EXECUTIVE OR COUNTY ADMINISTRATOR. (intro.) In any county with a county executive or county administrator in which the county board of supervisors or the Milwaukee County mental health board has established a single–county department of community programs, the county executive or county administrator shall appoint and supervise the county community programs director. In any county with a population of ~~500,000~~ 750,000 or more, the county executive or county administrator shall appoint the director of the county department of human services under s. 46.21 as the county community programs director. The appointment of a county community programs director under this subsection shall be on the basis of recognized and demonstrated interest in and knowledge of the problems of mental health, intellectual disability, alcoholism and drug addiction, with due regard to training, experience, executive and administrative ability, and general qualification and fitness for the performance of the duties of the director. The appointment of a county community programs director under this subsection is subject to confirmation by the county board of supervisors, except in Milwaukee County, unless the county board of supervisors, by ordinance, elects to waive confirmation or unless the appointment is made under a civil service system competitive examination procedure established under s. 59.52 (8) or ch. 63. The county community programs director, subject only to the supervision of the county executive or county administrator, shall:

SECTION 48. 51.42 (6m) (c) of the statutes is amended to read:

51.42 **(6m)** (c) Determine, subject to the approval of the county board of supervisors or the Milwaukee County mental health board, as applicable, and with the advice of the county community programs board, whether services are to be provided directly by the county department of community programs or contracted for with other providers and make such contracts. The county board of supervisors, except in Milwaukee County, or the Milwaukee County mental health board in Milwaukee County may elect to require the approval of any such contract by the county board of supervisors or the Milwaukee County mental health board.

SECTION 49. 51.42 (6m) (i) of the statutes is amended to read:

51.42 **(6m)** (i) Establish salaries and personnel policies of the programs of the county department of community programs subject to approval of the county executive or county administrator and county board of supervisors, except in Milwaukee County, or the Milwaukee County mental health board in Milwaukee County unless the county board of supervisors or the Milwaukee County mental health board elects not to review the salaries and personnel policies.

SECTION 50. 51.42 (6m) (m) 3. of the statutes is amended to read:

51.42 **(6m)** (m) 3. Such other reports as are required by the secretary and the county board of supervisors or, as applicable, the Milwaukee County mental health board.

SECTION 51. 51.423 (11) of the statutes is amended to read:

51.423 **(11)** Each county department under s. 51.42 or 51.437, or both, shall apply all funds it receives under subs. (1) to (7) to provide the services required under ss. 51.42, 51.437 and 51.45 (2) (g) to meet the needs for service quality and accessibility of the persons in its jurisdiction, except that the county department may pay for inpatient treatment only with funds designated by the department for

inpatient treatment. The county department may expand programs and services with county funds not used to match state funds under this section subject to the approval of the county board of supervisors in a county with a single–county department, except in Milwaukee County, the Milwaukee County mental health board in Milwaukee County, or the county boards of supervisors in counties with multicounty departments and with other local or private funds subject to the approval of the department and the county board of supervisors in a county with a single–county department under s. 51.42 or 51.437, the Milwaukee County mental health board with a department under s. 51.42, or the county boards of supervisors in counties with a multicounty department under s. 51.42 or 51.437. The county board of supervisors in a county with a single–county department under s. 51.42 or 51.437, the Milwaukee County mental health board with a department under s. 51.42, or the county boards of supervisors in counties with a multicounty department under s. 51.42 or 51.437 may delegate the authority to expand programs and services to the county department under s. 51.42 or 51.437. The county department under s. 51.42 or 51.437 shall report to the department all county funds allocated to the county department under s. 51.42 or 51.437 and the use of such funds. Moneys collected under s. 46.10 shall be applied to cover the costs of primary services, exceptional and specialized services or to reimburse supplemental appropriations funded by counties. County departments under ss. 51.42 and 51.437 shall include collections made on and after October 1, 1978, by the department that are subject to s. 46.10 (8m) (a) 3. and 4. and are distributed to county departments under ss. 51.42 and 51.437 from the appropriation account under s. 20.435 (5) (gg), as revenues on their grant–in–aid expenditure reports to the department.

SECTION 52. 51.44 (4) of the statutes is amended to read:

51.44 **(4)** Each county board of supervisors, except in Milwaukee County, and the Milwaukee County mental health board in Milwaukee County shall designate the appropriate county department under s. 46.21, 46.23 or 51.437, the local health department of the county or another entity as the local lead agency to provide early intervention services under the funding specified in sub. (3).

SECTION 53. 51.61 (1) (e) of the statutes is amended to read:

51.61 **(1)** (e) Except in the case of a patient who is admitted or transferred under s. 51.35 (3) or 51.37 or under ch. 971 or 975, have the right to the least restrictive conditions necessary to achieve the purposes of admission, commitment or protective placement, under programs, services and resources that the county board of supervisors or the Milwaukee County mental health board, as applicable, is reasonably able to provide within the limits of available state and federal funds and of county funds required to be appropriated to match state funds.

SECTION 54. 51.61 (1) (f) of the statutes is amended to read:

51.61 **(1)** (f) Have a right to receive prompt and adequate treatment, rehabilitation and educational services appropriate for his or her condition, under programs, services and resources that the county board of supervisors or the Milwaukee County mental health board, as applicable, is reasonably able to provide within the limits of available state and federal funds and of county funds required to be appropriated to match state funds.

SECTION 55. 55.001 of the statutes is amended to read:

55.001 Declaration of policy. The legislature recognizes that many citizens of the state, because of serious and persistent mental illness, degenerative brain disorder, developmental disabilities, or other like incapacities, are in need of protective services or protective placement. Except as provided in s. 49.45 (30m) (a),

the protective services or protective placement should, to the maximum degree of feasibility under programs, services and resources that the county board of supervisors or the Milwaukee County mental health board, as applicable, is reasonably able to provide within the limits of available state and federal funds and of county funds required to be appropriated to match state funds, allow the individual the same rights as other citizens, and at the same time protect the individual from financial exploitation, abuse, neglect, and self–neglect. This chapter is designed to establish those protective services and protective placements, to assure their availability to all individuals when in need of them, and to place the least possible restriction on personal liberty and exercise of constitutional rights consistent with due process and protection from abuse, financial exploitation, neglect, and self–neglect.

SECTION 56. 59.53 (7) of the statutes is amended to read:

59.53 **(7)** INITIATIVE TO PROVIDE COORDINATED SERVICES. ~~The~~ Except in Milwaukee County, the board may establish an initiative to provide coordinated services under s. 46.56.

SECTION 57. 59.53 (25) of the statutes is created to read:

59.53 **(25)** MILWAUKEE COUNTY MENTAL HEALTH. The Milwaukee County board has no jurisdiction and may not take any actions, including under ss. 59.52 (6) and (31), 66.0301, and 66.0607 (2), related to mental health functions, programs, and services.

SECTION 58. Nonstatutory provisions.

(1) INITIAL TERMS OF THE MILWAUKEE COUNTY MENTAL HEALTH BOARD. Notwithstanding the length of terms for the members of the Milwaukee County mental health board specified in sections 15.07 (1) (cm) and 15.195 (9) of the statutes

the initial members, other than the members approved under section 15.195 (9) (b) 10. and 11. of the statutes, as created by this act, shall be appointed for the following terms:

(a) Three members, as designated by the governor, specified under section 15.195 (9) (b) of the statutes, as created by this act, for terms that expire on May 1, 2016.

(b) Three members, as designated by the governor, specified under section 15.195 (9) (b) of the statutes, as created by this act, for terms that expire on May 1, 2017.

(c) Three members, as designated by the governor, specified under section 15.195 (9) (b) of the statutes, as created by this act, for terms that expire on May 1, 2018.

(d) The members specified under section 15.195 (9) (c) of the statutes, as created by this act, for terms that expire on May 1, 2017.

(2) PROVISIONAL APPOINTMENTS TO THE MILWAUKEE COUNTY MENTAL HEALTH BOARD.

(a) Notwithstanding section 15.07 (1) (b) 24. of the statutes, as created by this act, within 60 days after the effective date of this act, the governor shall provisionally appoint initial members of the Milwaukee County mental health board under section 15.195 (9) of the statutes, as created by this act. Those provisional appointments remain in force until withdrawn by the governor or acted upon by the senate, and if confirmed by the senate shall continue for the remainder of the unexpired term, if any, of the member and until a successor is chosen and qualifies. A provisional appointee under this paragraph may exercise all the powers and duties of the office to which the person is appointed during the time in which the appointee qualifies.

****NOTE: I will have to check if the legislature may require the governor to make appointments, especially within a certain amount of time.

(b) A provisional appointment made under paragraph (a) that is withdrawn by the governor lapses and such withdrawal creates a vacancy for provisional appointment of a replacement initial member of the Milwaukee County mental health board. Any provisional appointment made under paragraph (a) that is rejected by the senate lapses and such rejection creates a vacancy for nomination and appointment under section 15.07 (1) (b) 24. of the statutes, as created by this act, of a replacement initial board member.

(3) JURISDICTION OF THE MILWAUKEE COUNTY MENTAL HEALTH BOARD. The mental health functions, programs, and services over which the Milwaukee County mental health board has jurisdiction upon appointment of the Milwaukee County mental health board are those functions, programs, and services that Milwaukee County included in its 2014 budget under the behavioral health division unit 6300 and under the behavioral health community services strategic program area of unit 8000.

(END)

Insert 5-A

no? Insert 5-A

Furthermore, the trustees, under current law, appoint a superintendent of each institution, who must appoint and prescribe duties of necessary additional officers and employees of the institution, subject to county civil service law and approval of the trustees. Under current law, the salaries of the superintendent, visiting physician, and all necessary additional officers are fixed by the county board. Under the bill, in Milwaukee County, the salaries of any superintendent of a mental health institution and the salaries of any visiting physician and necessary additional officers and employees are fixed by the county executive.

(End Insert 5-A)

Insert 22-14

X

Section #. 46.19 (4) of the statutes is amended to read:

46.19 Officers and employees of county institutions. (1) The trustees shall appoint a superintendent of each institution and may remove the superintendent for cause, as defined in s. 17.001, on due notice in writing and hearing of the charges against the superintendent.

(2) The trustees shall prescribe the duties of the superintendent. The superintendent shall execute and file an official bond with sureties approved by the trustees.

(3) Subject to the approval of the trustees, the superintendent shall appoint and prescribe the duties of necessary additional officers and employees of the institution, and may remove them at the superintendent's discretion, subject to the county civil service law.

(4) The salaries of the superintendent, visiting physician and all necessary additional officers and employees shall be fixed by the county board. In Milwaukee County, the

History: 1991 a. 316; 2001 a. 103.

Salaries of any superintendent of a mental health institution and the salaries of any visiting physician and necessary additional officers and employees whose duties are related to mental health shall be fixed by the county executive.

(End Insert 22-14)

Barman, Mike

From: Hoisington, Joshua
Sent: Friday, January 31, 2014 8:43 AM
To: LRB.Legal
Subject: RUSH Draft Review: LRB -3513/1 Topic: Oversight of Milwaukee County mental health functions, services, and programs.

RUSH

Please Jacket LRB -3513/1 for the ASSEMBLY.