



In: 3/1 (Due noonish Monday 3/3 Preferably mid-morning)



LRB-8513/1

TJD:cjs:jf

stays

RMNR

P1
S0344/1

2013 ASSEMBLY BILL 718

D-note

February 3, 2014 - Introduced by Representative SANFELIPPO, cosponsored by Senator VUKMIR. Referred to Committee on Health.

SA

Gen Cat

1 **AN ACT to amend** 15.07 (1) (cm), 46.031 (2), 46.031 (2g) (a), 46.031 (2g) (b), 46.031
2 (2r) (b), 46.031 (3) (a), 46.031 (3) (b), 46.031 (3) (c), 46.034 (3), 46.175, 46.18 (1),
3 46.18 (3), 46.18 (4), 46.18 (11), 46.18 (12), 46.18 (13), 46.18 (14), 46.18 (15), 46.19
4 (4), 46.21 (2) (a), (j), (k), (m) and (q), (2m) (a) and (b) 1. (intro.), (3), (3g), (3r), (4),
5 (4m) (a) and (b) and (6), 46.56 (1) (a), 46.56 (2) (a), 46.56 (2) (b), 46.56 (3) (b) 11.,
6 46.56 (4) (d), 46.56 (15) (b) (intro.), 51.08, 51.20 (18) (a), 51.42 (1) (b), 51.42 (3)
7 (a), 51.42 (3) (ar) 8., 51.42 (3) (ar) 14., 51.42 (3) (b), 51.42 (4) (a) 2. (intro.), 51.42
8 (6m) (intro.), 51.42 (6m) (c), 51.42 (6m) (i), 51.42 (6m) (m) 3., 51.423 (11), 51.44
9 (4), 51.61 (1) (e), 51.61 (1) (f), 55.001 and 59.53 (7); and **to create** 13.94 (1) (mg),
10 15.07 (1) (b) 24., 15.07 (3) (bm) 7., 15.195 (9), 17.07 (3r), 20.435 (5) (kf), 51.41
11 and 59.53 (25) of the statutes; **relating to:** Milwaukee County mental health

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- 1 functions, programs, and services, creation of the Milwaukee County Mental
2 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 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

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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.

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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 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

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

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. 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.

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

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bill substitutes, in Milwaukee County, the MCMHB for the county board in those powers and duties.

10. 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.

11. 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:

1 **SECTION 1.** 13.94 (1) (mg) of the statutes is created to read:
2 13.94 (1) (mg) No later than January 1, 2017, and biennially thereafter,
3 perform a financial and performance evaluation audit of the Milwaukee County
4 mental health board and of mental health functions, programs, and services in
5 Milwaukee County including a review of the effectiveness of the Milwaukee County
6 mental health board and new policies implemented under that board in providing
7 mental health services, a review of the expenditures of the Milwaukee County

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1 mental health board, a review of Milwaukee County's expenditures for mental health
2 functions, programs, and services and the outcomes of those programs and services
3 in the period after the formation of the Milwaukee County mental health board. The
4 legislative audit bureau shall file a copy of the audit report under this paragraph
5 with the distributees specified in par. (b) and the Milwaukee County executive and
6 the Milwaukee County board of supervisors. The audit under this paragraph does
7 not count toward the limit of audits of a county in a calendar year in par. (m).

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

9 15.07 (1) (b) 24. The Milwaukee County mental health board, subject to s.
10 15.195 (9).

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

12 15.07 (1) (cm) The term of one member of the government accountability board
13 shall expire on each May 1. The terms of the 3 members of the land and water
14 conservation board appointed under s. 15.135 (4) (b) 2. shall expire on January 1.
15 The term of the member of the land and water conservation board appointed under
16 s. 15.135 (4) (b) 2m. shall expire on May 1 of an even-numbered year. The terms of
17 the appraiser members of the real estate appraisers board and the terms of the
18 auctioneer and auction company representative members of the auctioneer board
19 shall expire on May 1 in an even-numbered year. The terms of the members of the
20 cemetery board shall expire on July 1 in an even-numbered year. The term of the
21 student member of the Board of Regents of the University of Wisconsin System who
22 is at least 24 years old shall expire on May 1 of every even-numbered year. The terms
23 of 6 of the members of the Milwaukee County mental health board appointed under
24 s. 15.195 (9) (b) shall expire on May 1 of an even-numbered year.

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

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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.

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

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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.

the Wisconsin Psychiatric Association,

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(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 subs. 10. and 11.:

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1. A psychiatrist or psychologist who is suggested by the Milwaukee County board of supervisors. ~~and selected in consultation with the Milwaukee County executive~~ The Milwaukee County board of supervisors shall solicit

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suggestions for psychiatrists and psychologists from organizations including the Wisconsin Medical Society, the Medical Society of Milwaukee, the Wisconsin

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Psychological Association, and the Wisconsin Association of Family and Children's

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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.

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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

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Wisconsin Medical Society, the Medical Society of Milwaukee, the Wisconsin Psychological Association, and the Milwaukee Co-occurring Competency Cadre for

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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.

the Wisconsin Psychiatric Association,

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SECTION 5

psychiatric mental health
advanced practice nurse prescriber

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

board of supervisors

Nurses

board of supervisor

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

board of supervisors

psychiatric mental health advanced practice
nurse prescribers

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

^ knowledge of public and private
funding and systems, ^

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SECTION 5

Wisconsin Nurses Association and the

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.

who is suggested by the Milwaukee County executive

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.

The Milwaukee County executive shall suggest to the governor 4 individuals with legal expertise for this board membership position.

8. A health care provider representing community-based mental health service providers. The governor shall solicit suggestions from organizations

Milwaukee County board of supervisors

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.

The Milwaukee County board of supervisors shall suggest to the governor 4 health care providers representing community-based mental health service providers for this board membership position.

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.

Milwaukee County executive

The Milwaukee County executive shall suggest to the governor 4 consumers or family members representing community-based mental health service providers for this board membership position.

who is suggested by the Milwaukee County Board of Supervisors

the Wisconsin Nurses Association

and who is suggested by the Milwaukee County executive

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Insert
11-1

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

6 11. The chairperson of the Milwaukee Mental Health Task Force, or his or her
7 designee. suggested by the Medical College of Wisconsin.

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

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

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

suggested by the University of Wisconsin - Madison

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SECTION 5

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

Insert
12-7

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

A person nominating or suggesting individuals for nomination

9 3 2. ~~When submitting suggestions for nominations~~ of members under par. (b) (the

10 Milwaukee County executive and Milwaukee County board of supervisors shall

11 attempt to ensure that individuals suggested are among the most-qualified and
 12 experienced in their field.

Insert
12-13

13 4 3. Members under par. (b) collectively who are health care providers shall possess cultural competency and ~~have experience~~

14 in providing services to the population that is serviced by the Milwaukee County
 15 mental health system. shall reflect

16 5 4. No member of the board may be an employee or contractor of Milwaukee
 17 County at the time of nomination.

18 6 5. No member of the board may be a lobbyist, as defined in s. 13.62 (11). No
 19 member of the board may directly or indirectly solicit or receive subscriptions or
 20 contributions for any partisan political party or any political purpose while
 21 appointed to the board. No member of the board may engage in any form of political
 22 activity calculated to favor or improve the chances of any political party or any person
 23 seeking or attempting to hold partisan office. No member of the board may hold an
 24 elected office. Any violation of this subdivision is adequate grounds for dismissal.

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x 1 6 No member under par. (b) may serve more than 2 consecutive terms in a
2 membership position for which suggestions for nomination are made by the same
3 individual or entity, except that a member may serve 3 consecutive terms in a
4 membership position for which suggestions for nomination are made by the same
5 individual or entity if one of those 3 terms is for less than 2 years. An individual who
6 has served 2 consecutive 4-year terms or 3 consecutive terms totalling less than 10
7 years is eligible to be suggested for nomination as a member under par. (b) after the
8 individual has not served on the board for 12 months.

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

10 17.07 (3r) (a) Notwithstanding sub. (3), a member of the Milwaukee County
11 mental health board may be removed by any of the following:

12 1. The governor, for cause.

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

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

23 (b) Notwithstanding sub. (3), a member of the Milwaukee County mental
24 health board shall be removed by the governor for engaging in an activity under s.
25 15.195 (9) (d) that disqualifies an individual from board membership.

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

2 20.435 (5) (kf) *Milwaukee County mental health board*. All moneys received
3 under s. 51.41 ^{elo}(5) (b) for the general program operations of Milwaukee County
4 mental health board. ✓

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

6 46.031 (2) ASSESSMENT OF NEEDS. Before developing and submitting a proposed
7 budget to the county executive or county administrator or the county board or the
8 Milwaukee County mental health board, the county departments listed in sub. (1)
9 shall assess needs and inventory resources and services, using an open public
10 participation process.

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

12 46.031 (2g) (a) The department shall annually submit to the county board of
13 supervisors in a county with a single-county department, the Milwaukee County
14 mental health board in Milwaukee County for matters related to mental health, or
15 the county boards of supervisors in counties with a multicounty department a
16 proposed written contract containing the allocation of funds and such administrative
17 requirements as necessary. The contract as approved may contain conditions of
18 participation consistent with federal and state law. The contract may also include
19 provisions necessary to ensure uniform cost accounting of services. Any changes to
20 the proposed contract shall be mutually agreed upon. The county board of
21 supervisors in a county with a single-county department, the Milwaukee County
22 mental health board in Milwaukee County for matters related to mental health, or
23 the county boards of supervisors in counties with a multicounty department shall
24 approve the contract before January 1 of the year in which it takes effect unless the
25 department grants an extension. The county board of supervisors in a county with

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

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

6 46.031 (2g) (b) The department may not approve contracts for amounts in
7 excess of available revenues. The county board of supervisors in a county with a
8 single-county department, the Milwaukee County mental health board in
9 Milwaukee County for matters related to mental health, or the county boards of
10 supervisors in counties with a multicounty department may appropriate funds not
11 used to match state funds under ss. 46.495 (1) (d) and 51.423. Actual expenditure
12 of county funds shall be reported in compliance with procedures developed by the
13 department, and shall comply with standards guaranteeing quality of care
14 comparable to similar facilities.

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

16 46.031 (2r) (b) If the department withholds a portion of the allocable
17 appropriation under par. (a), the county department affected by the action of the
18 department may submit to the county board of supervisors in a county with a
19 single-county department or to its designated agent, to the Milwaukee County
20 mental health board if related to mental health in Milwaukee County, or to the
21 county boards of supervisors in counties with a multicounty department or their
22 designated agents a plan to rectify the deficiency found by the department. The
23 county board of supervisors or its designated agent in a county with a single-county
24 department, the Milwaukee County mental health board if related to mental health,
25 or the county boards of supervisors in counties with a multicounty department or

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SECTION 11

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

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

7 46.031 (3) (a) *Citizen advisory committee.* Except as provided in par. (b), the
8 county board of supervisors of each county, the Milwaukee County mental health
9 board, as applicable, or the county boards of supervisors of 2 or more counties jointly
10 shall establish a citizen advisory committee to the county departments under ss.
11 46.215, 46.22, 46.23, 51.42, and 51.437. The citizen advisory committee shall advise
12 in the formulation of the budget under sub. (1). Membership on the committee shall
13 be determined by the county board of supervisors in a county with a single-county
14 committee, the Milwaukee County mental health board, as applicable, or by the
15 county boards of supervisors in counties with a multicounty committee and shall
16 include representatives of those persons receiving services, providers of service and
17 citizens. A majority of the members of the committee shall be citizen and service
18 consumers. The committee's membership may not consist of more than 25% county
19 supervisors, nor of more than 20% service providers. The chairperson of the
20 committee shall be appointed by the county board of supervisors establishing it or
21 by the Milwaukee County mental health board, if it establishes the committee. In
22 the case of a multicounty committee, the chairperson shall be nominated by the
23 committee and approved by the county boards of supervisors establishing it. The
24 county board of supervisors in a county with a single-county committee or the county
25 boards of supervisors in counties with a multicounty committee may designate an

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

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

4 46.031 (3) (b) *Alternate process.* The county board of supervisors, the
5 Milwaukee County mental health board, as applicable, or the boards of 2 or more
6 counties acting jointly may submit a report to the department on the open public
7 participation process used under sub. (2). The county board of supervisors or the
8 Milwaukee County mental health board may designate an agent, or the boards of 2
9 or more counties acting jointly may designate an agent, to submit the report. If the
10 department approves the report, establishment of a citizen advisory committee
11 under par. (a) is not required.

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

13 46.031 (3) (c) *Yearly report.* The county board of supervisors or its designated
14 agent, the Milwaukee County mental health board, as applicable, or the boards of 2
15 or more counties acting jointly or their designated agent, shall submit to the
16 department a list of members of the citizen advisory committee under par. (a) or a
17 report on the open public participation process under par. (b) on or before July 1 of
18 each year.

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

20 46.034 (3) With the agreement of the affected county board of supervisors in
21 a county with a single-county department, the Milwaukee County mental health
22 board, as applicable, or boards of supervisors in counties with a multicounty
23 department, effective for the contract period beginning January 1, 1980, the
24 department may approve a county with a single-county department or counties
25 participating in a multicounty department to administer a single consolidated aid

ASSEMBLY BILL 718**SECTION 15**

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

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

21 **46.175 County institutions: minimum standards.** Notwithstanding any
22 other provision of law, any county currently operating an institution established
23 under s. 49.70, 49.71, 49.72, 51.08, or 51.09 may, by resolution of the county board
24 or, in Milwaukee County for institutions providing mental health treatment, the
25 Milwaukee County mental health board, designate such institution or distinct part

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

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

7 46.18 (1) TRUSTEES. Every county home, infirmary, hospital, or similar
8 institution, shall, subject to regulations approved by the county board except in
9 Milwaukee County for county homes, infirmaries, hospitals, or institutions
10 providing mental health treatment, be managed by a board of trustees, electors of the
11 county, chosen by ballot by the county board. In Milwaukee County, every county
12 home, infirmary, hospital, or similar institution that provides mental health
13 treatment shall, subject to standards and procedures adopted by the Milwaukee
14 County mental health board, be managed by a board of trustees, electors of the
15 county, chosen by ballot by the Milwaukee County mental health board. At its
16 annual meeting, the county board or the Milwaukee County mental health board, if
17 applicable, shall appoint an uneven number of trustees, from 3 to 9 at the option of
18 the board, for staggered 3-year terms ending the first Monday in January. Any
19 vacancy shall be filled for the unexpired term by the county board or the Milwaukee
20 County mental health board, as applicable; but the chairperson of the county board
21 may appoint a trustee to fill the vacancy until the county board acts except for boards
22 of trustees appointed by the Milwaukee County mental health board for which the
23 chairperson of the Milwaukee County mental health board may appoint a trustee to
24 fill the vacancy until the entire Milwaukee County mental health board acts.

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

ASSEMBLY BILL 718**SECTION 18**

1 **46.18 (3) REMOVAL OF TRUSTEE.** Any trustee may be removed from office for
2 misconduct or neglect, by a two-thirds vote of the county board or of the Milwaukee
3 County mental health board, as applicable, on due notice in writing and hearing of
4 the charges against the trustee.

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

6 **46.18 (4) OATH OF OFFICE, BOND, EXPENSES, PAY.** Each trustee shall take and file
7 the official oath and execute and file an official bond to the county, in the amount
8 determined by the county board, or the Milwaukee County mental health board, as
9 applicable, and the sufficiency of the sureties shall be approved by the chairperson
10 of the board. Each trustee shall be reimbursed for traveling expenses necessarily
11 incurred in the discharge of the duties, and shall receive the compensation fixed by
12 the county board or the Milwaukee County mental health board, as applicable,
13 unless otherwise provided by law.

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

15 **46.18 (11) COUNTY APPROPRIATION.** The county board or, in Milwaukee County,
16 the Milwaukee County mental health board, as applicable, shall annually
17 appropriate for operation and maintenance of each such institution not less than the
18 amount of state aid estimated by the trustees to accrue to said institution; or such
19 lesser sum as may be estimated by the trustees to be necessary for operation and
20 maintenance.

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

22 **46.18 (12) ADDITIONAL DUTIES.** The county board or the Milwaukee County
23 mental health board, as applicable, may provide that the trustees and
24 superintendent of any institution shall be the trustees and superintendent of any
25 other institution.

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

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

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

21 46.18 (14) INCENTIVE PAYMENTS TO PATIENTS IN MENTAL HOSPITALS. The county
22 board or, in Milwaukee County, the Milwaukee County mental health board may
23 authorize the board of trustees of any county mental hospital to establish a program
24 of incentive payments so as to provide incentive and encouragement to patients by
25 the disbursement of small weekly payments but not restricted to work allowances.

ASSEMBLY BILL 718**SECTION 23**

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

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

6 **46.18 (15) JOINT OPERATION OF HEALTH-RELATED SERVICE.** If the county board of
7 supervisors, or the Milwaukee County mental health board, as applicable, so
8 authorizes, the trustees of the county hospital may, together with a private or public
9 organization or affiliation, organize, establish and participate in the governance and
10 operation of an entity to operate, wholly or in part, any health-related service, may
11 participate in the financing of the entity and may provide administrative and
12 financial services or resources for its operation on terms prescribed by the county
13 board of supervisors or the Milwaukee County mental health board, as applicable.

14 **SECTION 25.** 46.19 (4) of the statutes is amended to read:

15 **46.19 (4)** The salaries of the superintendent, visiting physician and all
16 necessary additional officers and employees shall be fixed by the county board. In
17 Milwaukee County, the salaries of any superintendent of a mental health institution
18 and the salaries of any visiting physician and necessary additional officers and
19 employees whose duties are related to mental health shall be fixed by the county
20 executive.

21 **SECTION 26.** 46.21 (2) (a), (j), (k), (m) and (q), (2m) (a) and (b) 1. (intro.), (3), (3g),
22 (3r), (4), (4m) (a) and (b) and (6) of the statutes are amended to read:

23 **46.21 (2) (a)** Shall adopt policies for the management, operation, maintenance
24 and improvement of the county hospital; the detention center; the probation section
25 of the children's court center; the provision and maintenance of the physical facilities

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1 for the children's court and its intake section under the supervision and operation
2 of the judges assigned to exercise jurisdiction under chs. 48 and 938 and as provided
3 in s. 938.06 (1); ~~the mental health complex~~; the county department of human
4 services; the central service departments; and all buildings and land used in
5 connection with any institution under this section except a mental health
6 institution. The powers and duties of the county board of supervisors are policy
7 forming only, and not administrative or executive. The county board of supervisors
8 may not form policies regarding mental health or mental health institutions,
9 programs, or services. The Milwaukee County mental health board shall adopt the
10 policies under this paragraph regarding mental health and mental health
11 institutions, programs, and services.

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

24 (k) Shall make sufficient appropriation annually for the support, maintenance,
25 salaries, repairs and improvements to the county department of human services and

ASSEMBLY BILL 718**SECTION 26**

1 the institutions, except for mental health institutions. The appropriations shall be
2 used subject to the order of the director or administrator and as the policies adopted
3 by the county board of supervisors provide. The director or administrator may not
4 incur any expense or contract for new buildings, additions to present buildings or the
5 purchase of land until the county board of supervisors, or the Milwaukee County
6 mental health board, as applicable, has appropriated or provided for the money to
7 defray such expense.

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

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1 hospitals. In this paragraph, "hospital" does not include any hospital furnishing
2 primarily domiciliary care. In this paragraph "nonprofit hospital" means any
3 hospital owned and operated by a corporation or association, no part of the net
4 earnings of which inures, or may lawfully inure, to the benefit of any private
5 shareholder or individual.

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

16 (2m) (a) *Creation.* The management, operation, maintenance and
17 improvement of human services in a county with a population of 500,000 750,000 or
18 more is vested in a county department of human services under the jurisdiction, as
19 to policy, of the county board of supervisors or, as to mental health policy, the
20 Milwaukee County mental health board. The county department of human services
21 shall consist of the director appointed under sub. (1m), any division administrator
22 appointed under sub. (4) or s. 51.41 (8), and necessary personnel appointed by the
23 director or appointed by a division administrator and approved by the director. ✓

24 (b) 1. (intro.) The county board of supervisors or, in matters related to mental
25 health, the Milwaukee County mental health board may transfer the powers and

ASSEMBLY BILL 718**SECTION 26**

1 duties of any human services program under the control of the county and shall
2 transfer all of the following to the county department of human services:

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

11 (3g) POWERS AND DUTIES OF THE ADMINISTRATOR. All of the administrative and
12 executive powers and duties of managing, operating, maintaining and improving the
13 county hospital and other institutions and departments that the county board of
14 supervisors or, in matters of mental health, the Milwaukee County mental health
15 board may place under the jurisdiction of the administrator are vested in the
16 administrator, subject to the policies and in accordance with the principles adopted
17 by the county board of supervisors or, in matters of mental health, the Milwaukee
18 County mental health board.

19 (3r) OTHER POWERS AND DUTIES. The county board of supervisors or, in matters
20 of mental health, the Milwaukee County mental health board may place under the
21 jurisdiction of county entities not specified under this section the administrative and
22 executive powers and duties of managing, operating, maintaining and improving
23 institutions and departments or other responsibilities that are specified in sub. (2),
24 including functions related to the central service departments and buildings and
25 land used in connection with any institution under sub. (2).

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(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

ASSEMBLY BILL 718**SECTION 26**

1 applicable federal statutes and regulations, state statutes and rules and
2 requirements of the county auditor and county department of administration.

3 **SECTION 27.** 46.56 (1) (a) of the statutes is amended to read:

4 46.56 (1) (a) "Administering agency" means a department designated by a
5 county board of supervisors, by the Milwaukee County mental health board in
6 Milwaukee County, or by a tribe to administer an initiative.

7 **SECTION 28.** 46.56 (2) (a) of the statutes, as affected by 2013 Wisconsin Act 20,
8 is amended to read:

9 46.56 (2) (a) Except as provided in par. (b), if a county board of supervisors or
10 the Milwaukee County mental health board establishes an initiative under s. 59.53
11 (7) or if a tribe establishes an initiative, the county board, Milwaukee County mental
12 health board, or tribe shall appoint a coordinating committee and designate an
13 administering agency. The initiative may be funded by the county or tribe or the
14 county board of supervisors, Milwaukee County mental health board, or tribe may
15 apply for funding by the state in accordance with sub. (15). ✓

16 **SECTION 29.** 46.56 (2) (b) of the statutes, as created by 2013 Wisconsin Act 20,
17 is amended to read:

18 46.56 (2) (b) A county may enter into an agreement with one or more other
19 counties or tribes to establish an initiative and a tribe may enter into an agreement
20 with one or more counties or tribes to establish an initiative. The parties to the
21 agreement shall designate in the agreement a single lead administrative county or
22 lead administrative tribe. The county board of the lead administrative county, the
23 Milwaukee County mental health board, if Milwaukee County is the lead
24 administrative county, or the lead administrative tribe shall appoint a coordinating
25 committee and designate an administering agency. The initiative may be funded by ✓

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1 the participating entities, or the county board of supervisors of the lead
2 administrative county, the Milwaukee County mental health board, if Milwaukee
3 County is the lead administrative county, or the lead administrative tribe may apply
4 for funding by the state in accordance with sub. (15).

5 **SECTION 30.** 46.56 (3) (b) 11. of the statutes is amended to read:

6 46.56 (3) (b) 11. Representatives of the county board or, in Milwaukee County,
7 the Milwaukee County mental health board or, for an initiative established by a
8 tribe, representatives of the elected governing body of the tribe.

9 **SECTION 31.** 46.56 (4) (d) of the statutes, as affected by 2013 Wisconsin Act 20,
10 is amended to read:

11 46.56 (4) (d) If the county board of supervisors, Milwaukee County mental
12 health board, or tribe or a multi-entity initiative decides to seek state funding under
13 sub. (15), develop the application in cooperation with the coordinating committee.

14 **SECTION 32.** 46.56 (15) (b) (intro.) of the statutes, as affected by 2013 Wisconsin
15 Act 20, is amended to read:

16 46.56 (15) (b) (intro.) In order to apply for funds under this subsection, the
17 county board of supervisors, Milwaukee County mental health board, or tribe or, for
18 a multi-entity initiative, the county board of the lead administrative county, the
19 Milwaukee County mental health board, if Milwaukee County is the lead
20 administrative county, or the lead administrative tribe shall do all of the following:

21 **SECTION 33.** 51.08 of the statutes is amended to read:

22 **51.08 Milwaukee County Mental Health Complex.** Any county having a
23 population of 500,000 or more may, pursuant to s. 46.17, establish and maintain a
24 county mental health complex. The county mental health complex shall be a hospital
25 devoted to the detention and care of drug addicts, alcoholics, chronic patients and

ASSEMBLY BILL 718**SECTION 33**

1 mentally ill persons whose mental illness is acute. Such hospital shall be governed
2 pursuant to s. 46.21. Treatment of alcoholics at the county mental health complex
3 is subject to approval by the department under s. 51.45 (8). The county mental health
4 complex established pursuant to this section is subject to rules promulgated by the
5 department concerning hospital standards. The county board may not sell the
6 county mental health complex under this section without approval of the Milwaukee
7 County mental health board.

8 **SECTION 34.** 51.20 (18) (a) of the statutes is amended to read:

9 51.20 (18) (a) Unless previously fixed by the county board of supervisors or the
10 Milwaukee County mental health board in the county in which the examination is
11 held, the examiners shall receive a fee as fixed by the court for participation in
12 commitment proceedings, and reasonable reimbursement for travel expenses.

13 **SECTION 35.** 51.41 of the statutes is created to read:

14 **51.41 Milwaukee County mental health; Milwaukee County mental**
15 **health board.**

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

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

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

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

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

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

3 1. Community-based, person-centered, recovery-oriented, mental health
4 systems.

5 2. Maximizing comprehensive community-based services.

6 3. Prioritizing access to community-based services and reducing reliance on
7 institutional and inpatient care.

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

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

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

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

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

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

23 (3) MILWAUKEE COUNTY MENTAL HEALTH BUDGET. (a) 1. The Milwaukee County
24 board of supervisors shall incorporate into the budget for Milwaukee County for a
25 fiscal year a total amount of funding for mental health functions, services, and

(g) Cooperate and consult with the department on recommendations for and establishing policy for inpatient mental health treatment facilities and related programs.

Insert 31-23

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in Milwaukee County

ASSEMBLY BILL 718**SECTION 35**

1 programs that is equal to the sum of any amount held in the mental health reserve
2 fund as described under par. (c) for the fiscal year previous to the fiscal year for which
3 the budget is being determined and the base budget amount of \$177,425,000,
4 adjusted as provided in subds. 2. to 4.

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

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

14 a. Unless subd. 3. b. applies, the percentage change in the consumer price index
15 for all urban consumers, U.S. city average, as determined by the U.S. department of
16 labor, during the calendar year preceding the fiscal year for which the budget is being
17 determined.

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

22 4. If the Milwaukee County mental health board transfers to itself jurisdiction
23 of a function, service, or program under sub. (4) (b) that it did not have jurisdiction
24 over on the effective date of this subdivision ... [LRB inserts date], the base budget
25 amount under subd. 1. shall be increased by an amount equal to the amount

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1 expended by Milwaukee County on that function, service, or program in the fiscal
2 year before the fiscal year in which the function, program, or service is transferred.

3 An increase under this subdivision applies for every fiscal year the Milwaukee
4 County mental health board has jurisdiction over that function, service, or program.

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

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

14 ⁵ (4) JURISDICTION OF MILWAUKEE COUNTY BOARD. (a) The Milwaukee County
15 board of supervisors has no jurisdiction over any mental health policy, functions,
16 programs, or services. The Milwaukee County board of supervisors may not create
17 new mental health functions, programs, or services that are under the jurisdiction
18 of the board of supervisors. Any dispute between the Milwaukee County board of
19 supervisors and the Milwaukee County mental health board over whether a
20 function, program, or service is a mental health function, program, or service under
21 the jurisdiction of the Milwaukee County mental health board shall be resolved by
22 the secretary of health services.

23 (b) The Milwaukee County mental health board may transfer jurisdiction over
24 a Milwaukee County function, service, or program to itself that pertains to mental
25 health or is highly integrated with mental health services and that is not under its

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SECTION 35

1 jurisdiction by statute or by agreement with the Milwaukee County board of
2 supervisors, by an affirmative vote of 8 of the voting Milwaukee County mental
3 health board members if the secretary of health services approves the transfer.

4 6 5 PAYMENT OF BOARD EXPENDITURES. (a) The Milwaukee County board of
5 supervisors and the department shall enter an agreement for the payment of
6 expenses of the Milwaukee County mental health board.

7 (b) The Milwaukee County board of supervisors shall arrange for the payment
8 of expenses from the total budget amount under sub. 4 3 (a) according to the
9 agreement under par. (a). All payments shall be credited to the appropriation
10 account under s. 20.435 (5) (kf).

11 7 6 COUNTY DEPARTMENT REQUIREMENTS. (a) A county department under s. 46.21
12 or 51.42 in Milwaukee County may not impede the Milwaukee County mental health
13 board in performing its duties under this section or exercising its powers under this
14 section.

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

18 8 7 REPORTS; STUDIES. (a) By March 1, 2015, and annually by March 1
19 thereafter, the Milwaukee County mental health board shall submit to the
20 Milwaukee County executive, the Milwaukee County board of supervisors, and the
21 department a report including a description of the funding allocations for Milwaukee
22 County's mental health functions, services, and programs and a description of any
23 improvements and efficiencies in those mental health functions, programs, and
24 services. The department shall provide access to the report under this subsection to
25 the public including posting the report on the department's Internet site.

ASSEMBLY BILL 718

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

9 ~~(B)~~ ADMINISTRATOR. (a) The Milwaukee County executive shall nominate an
10 individual to be the administrator of any division of the department under s. 46.21
11 that administers behavioral health for Milwaukee County. The nominated
12 individual may be hired as the administrator only upon approval of the Milwaukee
13 County mental health board. If the county executive does not nominate an
14 individual by June 1, 2015, the Milwaukee County mental health board may hire an
15 individual to be the administrator. Upon a vacancy in the position of administrator,
16 if the county executive does not nominate an individual within 12 months of the date
17 the position becomes vacant, the Milwaukee County mental health board may hire
18 an individual to be the administrator.

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

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

ASSEMBLY BILL 718

SECTION 35

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

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

votes to approve; or

9 (10) (9) MENTAL HEALTH CONTRACTS. Any contract related to mental health with a
 10 value of at least \$100,000, to which Milwaukee County is a party may take effect only
 11 if the Milwaukee County mental health board does not vote to reject the contract
 12 within 28 (14) days after the contract is signed or countersigned by the county executive.

13 **SECTION 36.** 51.42 (1) (b) of the statutes is amended to read:

14 51.42 (1) (b) *County liability.* The county board of supervisors except in
 15 Milwaukee County, has the primary responsibility for the well-being, treatment and
 16 care of the mentally ill, developmentally disabled, alcoholic and other drug
 17 dependent citizens residing within its county and for ensuring that those individuals
 18 in need of such emergency services found within its county receive immediate
 19 emergency services. In Milwaukee County, the Milwaukee County mental health
 20 board has the primary responsibility for the well-being, treatment and care of the
 21 mentally ill, alcoholic, and other drug dependent citizens residing within Milwaukee
 22 County and for ensuring that those individuals in need of such emergency services
 23 found within Milwaukee County receive immediate emergency services. The county
 24 board of supervisors of Milwaukee County has the primary responsibility for the
 25 well-being, treatment, and care of the developmentally disabled citizens residing

ASSEMBLY BILL 718

1 within Milwaukee County, except where the responsibility is delegated explicitly
2 under this section to the Milwaukee County mental health board, and for ensuring
3 that developmentally disabled individuals in need of such emergency services found
4 within Milwaukee County receive immediate emergency services. This primary
5 responsibility is limited to the programs, services and resources that the county
6 board of supervisors, or, as applicable, the Milwaukee County mental health board,
7 is reasonably able to provide within the limits of available state and federal funds
8 and of county funds required to be appropriated to match state funds. County
9 liability for care and services purchased through or provided by a county department
10 of community programs established under this section shall be based upon the
11 client's county of residence except for emergency services for which liability shall be
12 placed with the county in which the individual is found. For the purpose of
13 establishing county liability, "emergency services" includes those services provided
14 under the authority of s. 55.05 (4), 2003 stats., or s. 55.06 (11) (a), 2003 stats., or s.
15 51.15, 51.45 (11) (a) or (b) or (12), 55.13, or 55.135 for not more than 72 hours.
16 Nothing in this paragraph prevents recovery of liability under s. 46.10 or any other
17 statute creating liability upon the individual receiving a service or any other
18 designated responsible party, or prevents reimbursement by the department of
19 health services for the actual cost of all care and services from the appropriation
20 under s. 20.435 (7) (da), as provided in s. 51.22 (3).

21 **SECTION 37.** 51.42 (3) (a) of the statutes is amended to read:

22 51.42 (3) (a) *Creation.* Except as provided under s. 46.23 (3) (b), the county
23 board of supervisors of any county except Milwaukee County, the Milwaukee County
24 mental health board, or the county boards of supervisors of 2 or more counties, shall
25 establish a county department of community programs on a single-county or

ASSEMBLY BILL 718**SECTION 37**

1 multicounty basis to administer a community mental health, developmental
2 disabilities, alcoholism and drug abuse program, make appropriations to operate the
3 program and authorize the county department of community programs to apply for
4 grants-in-aid under s. 51.423. The county department of community programs shall
5 consist of a county community programs board, a county community programs
6 director and necessary personnel.

7 **SECTION 38.** 51.42 (3) (ar) 8. of the statutes is amended to read:

8 51.42 (3) (ar) 8. By September 30, submit for inclusion as part of the proposed
9 county budget to the Milwaukee County mental health board in Milwaukee County,
10 to the county executive or county administrator, or, in those counties without a
11 county executive or county administrator, directly to the county board of supervisors
12 in a county with a single-county department of community programs or the county
13 boards of supervisors in counties with a multicounty department of community
14 programs a proposed budget for the succeeding calendar year covering services,
15 including active treatment community mental health center services, based on the
16 plan required under subd. 5. The final budget shall be submitted to the department
17 of health services.

18 **SECTION 39.** 51.42 (3) (ar) 14. of the statutes is amended to read:

19 51.42 (3) (ar) 14. If the county board of supervisors or, as applicable, the
20 Milwaukee County mental health board establishes an initiative to provide
21 coordinated services under s. 59.53 (7), participate in and may administer the
22 initiative, including entering into any written interagency agreements or contracts.

23 **SECTION 40.** 51.42 (3) (b) of the statutes is amended to read:

24 51.42 (3) (b) *Other powers and duties.* The county board of supervisors of any
25 county with a single-county department of community programs, the Milwaukee

ASSEMBLY BILL 718

1 County mental health board, and the county boards of supervisors of counties with
2 a multicounty department of community programs may designate the county
3 department of community programs as the administrator of any other county health
4 care program or institution, but the operation of such program or institution is not
5 reimbursable under s. 51.423.

6 **SECTION 41.** 51.42 (4) (a) 2. (intro.) of the statutes is amended to read:

7 51.42 (4) (a) 2. (intro.) In any county with a county executive or county
8 administrator and which has established a single-county department of community
9 programs, the county executive or county administrator shall appoint, subject to
10 confirmation by the Milwaukee County mental health board in Milwaukee County
11 or the county board of supervisors, the county community programs board, which
12 shall be only a policy-making body determining the broad outlines and principles
13 governing the administration of programs under this section. A member of a county
14 community programs board appointed under this subdivision may be removed by the
15 county executive or county administrator under the following circumstances:

16 **SECTION 42.** 51.42 (6m) (intro.) of the statutes is amended to read:

17 51.42 (6m) COUNTY COMMUNITY PROGRAMS DIRECTOR IN CERTAIN COUNTIES WITH A
18 COUNTY EXECUTIVE OR COUNTY ADMINISTRATOR. (intro.) In any county with a county
19 executive or county administrator in which the county board of supervisors or the
20 Milwaukee County mental health board has established a single-county department
21 of community programs, the county executive or county administrator shall appoint
22 and supervise the county community programs director. In any county with a
23 population of ~~500,000~~ 750,000 or more, the county executive or county administrator
24 shall appoint the director of the county department of human services under s. 46.21
25 as the county community programs director. The appointment of a county

ASSEMBLY BILL 718

SECTION 42

1 community programs director under this subsection shall be on the basis of
2 recognized and demonstrated interest in and knowledge of the problems of mental
3 health, intellectual disability, alcoholism and drug addiction, with due regard to
4 training, experience, executive and administrative ability, and general qualification
5 and fitness for the performance of the duties of the director. The appointment of a
6 county community programs director under this subsection is subject to
7 confirmation by the county board of supervisors, except in Milwaukee County, unless
8 the county board of supervisors, by ordinance, elects to waive confirmation or unless
9 the appointment is made under a civil service system competitive examination
10 procedure established under s. 59.52 (8) or ch. 63. The county community programs
11 director, subject only to the supervision of the county executive or county
12 administrator, shall:

13 **SECTION 43.** 51.42 (6m) (c) of the statutes is amended to read:

14 51.42 (6m) (c) Determine, subject to the approval of the county board of
15 supervisors or the Milwaukee County mental health board, as applicable, and with
16 the advice of the county community programs board, whether services are to be
17 provided directly by the county department of community programs or contracted for
18 with other providers and make such contracts. The county board of supervisors,
19 except in Milwaukee County, or the Milwaukee County mental health board in
20 Milwaukee County may elect to require the approval of any such contract by the
21 county board of supervisors or the Milwaukee County mental health board.

22 **SECTION 44.** 51.42 (6m) (i) of the statutes is amended to read:

23 51.42 (6m) (i) Establish salaries and personnel policies of the programs of the
24 county department of community programs subject to approval of the county
25 executive or county administrator and county board of supervisors, except in

ASSEMBLY BILL 718

1 Milwaukee County, or the Milwaukee County mental health board in Milwaukee
2 County unless the county board of supervisors or the Milwaukee County mental
3 health board elects not to review the salaries and personnel policies.

4 SECTION 45. 51.42 (6m) (m) 3. of the statutes is amended to read:

5 51.42 (6m) (m) 3. Such other reports as are required by the secretary and the
6 county board of supervisors or, as applicable, the Milwaukee County mental health
7 board.

8 SECTION 46. 51.423 (11) of the statutes is amended to read:

9 51.423 (11) Each county department under s. 51.42 or 51.437, or both, shall
10 apply all funds it receives under subs. (1) to (7) to provide the services required under
11 ss. 51.42, 51.437 and 51.45 (2) (g) to meet the needs for service quality and
12 accessibility of the persons in its jurisdiction, except that the county department may
13 pay for inpatient treatment only with funds designated by the department for
14 inpatient treatment. The county department may expand programs and services
15 with county funds not used to match state funds under this section subject to the
16 approval of the county board of supervisors in a county with a single-county
17 department, except in Milwaukee County, the Milwaukee County mental health
18 board in Milwaukee County, or the county boards of supervisors in counties with
19 multicounty departments and with other local or private funds subject to the
20 approval of the department and the county board of supervisors in a county with a
21 single-county department under s. 51.42 or 51.437, the Milwaukee County mental
22 health board with a department under s. 51.42, or the county boards of supervisors
23 in counties with a multicounty department under s. 51.42 or 51.437. The county
24 board of supervisors in a county with a single-county department under s. 51.42 or
25 51.437, the Milwaukee County mental health board with a department under s.

ASSEMBLY BILL 718**SECTION 46**

1 51.42, or the county boards of supervisors in counties with a multicounty department
2 under s. 51.42 or 51.437 may delegate the authority to expand programs and services
3 to the county department under s. 51.42 or 51.437. The county department under
4 s. 51.42 or 51.437 shall report to the department all county funds allocated to the
5 county department under s. 51.42 or 51.437 and the use of such funds. Moneys
6 collected under s. 46.10 shall be applied to cover the costs of primary services,
7 exceptional and specialized services or to reimburse supplemental appropriations
8 funded by counties. County departments under ss. 51.42 and 51.437 shall include
9 collections made on and after October 1, 1978, by the department that are subject to
10 s. 46.10 (8m) (a) 3. and 4. and are distributed to county departments under ss. 51.42
11 and 51.437 from the appropriation account under s. 20.435 (5) (gg), as revenues on
12 their grant-in-aid expenditure reports to the department.

13 **SECTION 47.** 51.44 (4) of the statutes is amended to read:

14 51.44 (4) Each county board of supervisors, except in Milwaukee County, and
15 the Milwaukee County mental health board in Milwaukee County shall designate
16 the appropriate county department under s. 46.21, 46.23 or 51.437, the local health
17 department of the county or another entity as the local lead agency to provide early
18 intervention services under the funding specified in sub. (3).

19 **SECTION 48.** 51.61 (1) (e) of the statutes is amended to read:

20 51.61 (1) (e) Except in the case of a patient who is admitted or transferred under
21 s. 51.35 (3) or 51.37 or under ch. 971 or 975, have the right to the least restrictive
22 conditions necessary to achieve the purposes of admission, commitment or protective
23 placement, under programs, services and resources that the county board of
24 supervisors or the Milwaukee County mental health board, as applicable, is

ASSEMBLY BILL 718

1 reasonably able to provide within the limits of available state and federal funds and
2 of county funds required to be appropriated to match state funds.

3 **SECTION 49.** 51.61 (1) (f) of the statutes is amended to read:

4 51.61 (1) (f) Have a right to receive prompt and adequate treatment,
5 rehabilitation and educational services appropriate for his or her condition, under
6 programs, services and resources that the county board of supervisors or the
7 Milwaukee County mental health board, as applicable, is reasonably able to provide
8 within the limits of available state and federal funds and of county funds required
9 to be appropriated to match state funds.

10 **SECTION 50.** 55.001 of the statutes is amended to read:

11 **55.001 Declaration of policy.** The legislature recognizes that many citizens
12 of the state, because of serious and persistent mental illness, degenerative brain
13 disorder, developmental disabilities, or other like incapacities, are in need of
14 protective services or protective placement. Except as provided in s. 49.45 (30m) (a),
15 the protective services or protective placement should, to the maximum degree of
16 feasibility under programs, services and resources that the county board of
17 supervisors or the Milwaukee County mental health board, as applicable, is
18 reasonably able to provide within the limits of available state and federal funds and
19 of county funds required to be appropriated to match state funds, allow the
20 individual the same rights as other citizens, and at the same time protect the
21 individual from financial exploitation, abuse, neglect, and self-neglect. This chapter
22 is designed to establish those protective services and protective placements, to
23 assure their availability to all individuals when in need of them, and to place the
24 least possible restriction on personal liberty and exercise of constitutional rights

ASSEMBLY BILL 718

SECTION 50

1 consistent with due process and protection from abuse, financial exploitation,
2 neglect, and self-neglect.

3 **SECTION 51.** 59.53 (7) of the statutes is amended to read:

4 59.53 (7) INITIATIVE TO PROVIDE COORDINATED SERVICES. The Except in
5 Milwaukee County. the board may establish an initiative to provide coordinated
6 services under s. 46.56.

7 **SECTION 52.** 59.53 (25) of the statutes is created to read:

8 59.53 (25) MILWAUKEE COUNTY MENTAL HEALTH. The Milwaukee County board
9 has no jurisdiction and may not take any actions, including under ss. 59.52 (6) and
10 (31), 66.0301, and 66.0607 (2), related to mental health functions, programs, and
11 services.

12 **SECTION 53. Nonstatutory provisions.**

13 (1) INITIAL TERMS OF THE MILWAUKEE COUNTY MENTAL HEALTH BOARD.

14 Notwithstanding the length of terms for the members of the Milwaukee County
15 mental health board specified in sections 15.07 (1) (cm) and 15.195 (9) of the statutes
16 the initial members, other than the members approved under section 15.195 (9) (b)
17 10. and 11. of the statutes, as created by this act, shall be appointed for the following
18 terms:

19 (a) Three members, as designated by the governor, specified under section
20 15.195 (9) (b) of the statutes, as created by this act, for terms that expire on May 1,
21 2016.

22 (b) Three members, as designated by the governor, specified under section
23 15.195 (9) (b) of the statutes, as created by this act, for terms that expire on May 1,
24 2017.

ASSEMBLY BILL 718

1 (c) Three members, as designated by the governor, specified under section
2 15.195 (9) (b) of the statutes, as created by this act, for terms that expire on May 1,
3 2018.

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

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

7 (a) Notwithstanding section 15.07 (1) (b) 24. of the statutes, as created by this
8 act, within 60 days after the effective date of this act, the governor shall provisionally
9 appoint initial members of the Milwaukee County mental health board under section
10 15.195 (9) of the statutes, as created by this act. Those provisional appointments
11 remain in force until withdrawn by the governor or acted upon by the senate, and if
12 confirmed by the senate shall continue for the remainder of the unexpired term, if
13 any, of the member and until a successor is chosen and qualifies. A provisional
14 appointee under this paragraph may exercise all the powers and duties of the office
15 to which the person is appointed during the time in which the appointee qualifies.

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

23 (3) JURISDICTION OF THE MILWAUKEE COUNTY MENTAL HEALTH BOARD. The mental
24 health functions, programs, and services over which the Milwaukee County mental
25 health board has jurisdiction upon appointment of the Milwaukee County mental

ASSEMBLY BILL 718

SECTION 53

1 health board are those functions, programs, and services that Milwaukee County
 2 included in its 2014 budget under the behavioral health division unit 6300 and under
 3 the behavioral health community services strategic program area of unit 8000 ⁸⁷⁰⁰

4

(END)

branch

Insert 46-4

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LEGISLATIVE REFERENCE BUREAU

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INSERT 11-1

The chairperson of the community programs board under s. 51.42 (4), or his or her designee who is not an elected official (as defined in s. 5.02 (3m)). If the chairperson of the community programs board is an elected official, the chairperson shall designate an individual who is not an elected official to be a member under this subdivision.

county

in Milwaukee
= County

county

member of the county community programs board

(END INSERT 11-1)

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INSERT 12-7

1. The governor shall nominate individuals for appointment under par. (b) 1. to 9. in consultation with the Milwaukee County executive.

(END INSERT 12-7)

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no 9

a. In this subdivision, "cultural competency" means the ability to understand and act respectfully toward, in a cultural context, the beliefs, interpersonal styles, attitudes, and behaviors of persons and families of various cultures, including persons and families who receive mental health services in Milwaukee County and

15

who provide mental health services in Milwaukee County.

persons and families

(END INSERT 12-13)

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INSERT 31-23

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(b) The Milwaukee County mental health board may not establish policies that change general audit, bill paying, payroll, and human resource procedures for Milwaukee County government or for the county department under s. 46.21 for divisions, branches, or functions other than those related to mental health. The

1 Milwaukee County mental health board may change payroll and human resource
 2 procedures for the divisions, branches, and functions of the county department under
 3 s. 46.21 that relate to mental health only as authorized in this section and ss. 46.18,
 4 46.21, and 51.42.

5 (3) PUBLIC HEARING. Annually, the Milwaukee County mental health board
 6 shall hold a public hearing in Milwaukee County as one of its required meetings.

and insert 21-2

7 (4) MILWAUKEE COUNTY MENTAL HEALTH BUDGET. (a) 1. The Milwaukee County
 8 mental health board shall submit a proposed mental health budget to the Milwaukee
 9 County executive in which the amount of the budget derived from revenue from the
 10 tax levy is not less than \$53,000,000 and not more than \$65,000,000, except as
 11 provided in subds. 5 and 6.

12 2. The county executive may increase or decrease only the amount of the mental
 13 health budget that is derived from revenue from the tax levy. The county executive
 14 may not include in his or her proposed budget an amount of the mental health budget
 15 from revenue derived from the tax levy that is less than \$53,000,000 or more than
 16 \$65,000,000, except as provided in subds. 5 and 6.

17 3. The county board of supervisors shall allocate to mental health functions,
 18 programs, and services an amount from the county's community aids allocation
 19 received under s. 46.40 that maintains or increases the expenditures for mental
 20 health functions, programs, and services paid from the county's community aids
 21 allocation in the previous fiscal year to the extent of the availability of community
 22 aids funds from the state.

23 4. Except as provided in subds. 5 and 6., the county board of supervisors shall
 24 incorporate into the budget for Milwaukee County for a fiscal year all of the
 25 following:

1 a. As the county contribution to mental health functions, programs, and
2 services, the amount of revenue derived from the tax levy as proposed by the county
3 executive under subd. 2. and the amount of the community aids allocation
4 determined under subd. 3.

5 b. The amount proposed by the Milwaukee County mental health board under
6 subd. 1. for expenditures for mental health functions, programs, and services from
7 revenue sources other than the county's community aids allocation and the tax levy.

8 5. If the Milwaukee County mental health board transfers to itself jurisdiction
9 of a function, service, or program under sub. (5) (b) that it did not have jurisdiction
10 over on the effective date of this subdivision [LRB inserts date], the budgeted
11 amount under subd. 2. shall be increased by an amount equal to the amount of
12 revenue derived from the tax levy that was expended by Milwaukee County
13 for the transferred function, service, or program in the fiscal year before the fiscal year in
14 which the function, program, or service is transferred. The \$65,000,000 limit of
15 budgeted revenue from the tax levy under subd. 2. may be exceeded by the amount
16 of the increase under this subdivision in any fiscal year in which the Milwaukee
17 County mental health board has jurisdiction over the transferred function, service
18 or program.

19 6. If a majority of the Milwaukee County mental health board and a majority
20 of the Milwaukee County board of supervisors approves and the Milwaukee County
21 executive agrees the county contribution to the mental health budget from revenues
22 derived from the tax levy may be less than \$53,000,000 or more than \$65,000,000 for
23 a fiscal year.

24 (b) Except as allowed under pars. (a) 2., 3., 5., and 6. and (c), the Milwaukee
25 County board of supervisors may not provide funding for and the Milwaukee County

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FROM THE
LEGISLATIVE REFERENCE BUREAU**

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(4) MILWAUKEE COUNTY MENTAL HEALTH BUDGET. (a) In this subsection:

1. "Community aids amount" means the amount of the mental health budget that is funded from the community aids allocation received under s. 46.40.

2. "Mental health budget" means the part of the budget for Milwaukee County for a fiscal year that covers mental health functions, programs, and services in Milwaukee County.

3. "Tax levy amount" means the amount of the mental health budget that is funded from revenues from the tax levy.

(b) 1. The Milwaukee County mental health board shall propose to the Milwaukee County executive the total amount of the mental health budget, the community aids amount, and the tax levy amount. The Milwaukee County mental health board may not propose a tax levy amount that is less than \$53,000,000 or more than \$65,000,000, except as provided in subds. 5. and 6.

2. The county executive, in his or her proposed budget for Milwaukee County for a fiscal year, may include a tax levy amount that is different than the tax levy amount proposed under subd. 1., but the county executive may not include a tax levy amount that is less than \$53,000,000 or more than \$65,000,000, except as provided in subds. 5. and 6.

3. The county board of supervisors shall allocate to mental health functions, programs, and services an amount from the county's community aids allocation received under s. 46.40 that maintains or increases the expenditures for mental health functions, programs, and services paid from the county's community aids

allocation in the previous fiscal year to the extent of the availability of community aids funds from the state.

4. Except as provided in subds. 5. and 6., the county board of supervisors shall incorporate into the budget for Milwaukee County for a fiscal year all of the following:

a. The tax levy amount as proposed by the county executive under subd. 2. and the amount of the community aids allocation determined under subd. 3.

b. An amount equal to the total amount of the mental health budget proposed under subd. 1., less the community aids amount proposed under subd. 1 and the tax levy amount proposed under subd. 1.

5. If the Milwaukee County mental health board transfers to itself jurisdiction of a function, service, or program under sub. (5) (b) that it did not have jurisdiction over on the effective date of this subdivision [LRB inserts date], the tax levy amount proposed under subd. 2. is increased by an amount equal to the amount derived from revenue from the tax levy that was expended by Milwaukee County for the transferred function, service, or program in the fiscal year before the fiscal year in which the function, program, or service is transferred. The \$65,000,000 limit imposed under subds. 1. and 2. upon the tax levy amount may be exceeded by the amount of the increase under this subdivision in any fiscal year in which the Milwaukee County mental health board has jurisdiction over the transferred function, service or program.

6. If a majority of the Milwaukee County mental health board and a majority of the Milwaukee County board of supervisors approves and the Milwaukee County executive agrees the tax levy amount may be less than \$53,000,000 or more than \$65,000,000 for a fiscal year.

(c) Except as allowed under pars. (b) 2., 3., 4., 5., and 6. and (d), the Milwaukee County board of supervisors may not in a fiscal year provide funding, and the Milwaukee County executive may not in a fiscal year approve funding, for mental health functions, services, and programs that is less than or more than the total amount of the mental health budget proposed under par. (b) 1. for that fiscal year for those mental health functions, services, and programs.

(d) The treasurer in Milwaukee County shall hold any moneys that at the end of a fiscal year have not been expended or encumbered from the amount budgeted for mental health functions, programs, and services in a mental health reserve fund. Moneys in the reserve fund may be used at any time to cover deficits in the Milwaukee County mental health budget. If the amount in the reserve fund exceeds \$10,000,000, the amount exceeding \$10,000,000 may be used at any time for any mental health function, program, or service in Milwaukee County. Moneys in the reserve fund may be used only for the purposes described in this paragraph.

(END INSERT X)

1 executive may not approve funding for mental health functions, services, and
 2 programs that is less than or more than the budget proposed for those mental health
 3 functions, services, and programs by the Milwaukee County mental health board
 4 under par. (a) 1.

5 (c) The treasurer in Milwaukee County shall hold any unexpended moneys
 6 from the amount budgeted for mental health functions, programs, and services in a
 7 fiscal year in a mental health reserve fund. Moneys in the reserve fund may be used
 8 at any time to cover deficits in the Milwaukee County mental health budget. If the
 9 amount in the reserve fund exceeds \$10,000,000, the amount exceeding \$10,000,000
 10 may be used at any time for any mental health function, program, or service in
 11 Milwaukee County as designated by the Milwaukee County mental health board.

(END INSERT 31-23)

9

fix: these need to be autonumbers/letters, not hard numbers/letters.

12 INSERT 46-4

of the Milwaukee County department of health and human services

13 (4)(a) AUDIT AND REPORT BY DEPARTMENT OF HEALTH SERVICES. The department

14 of health services shall perform or arrange for an operational and programmatic
 15 audit of the behavioral health division, the psychiatric hospital of the Milwaukee
 16 County mental health complex, and the related behavioral health programs. The
 17 department of health services may enter a contract for the performance of the audit.
 18 By December 1, 2014, the department of health services or the person with whom
 19 the department of health services has entered into a contract for the audit shall
 20 submit a report of the findings of the audit, including recommendations for inpatient
 21 mental health treatment in Milwaukee County, to the secretary of health services.
 22 The secretary of health services shall submit a copy of the report to the Milwaukee
 23 County mental health board.

create auto ref X

Fix: this needs to be an auto letter, not a hard letter

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(b) The Milwaukee County mental health board, the Milwaukee County department of health and human services behavioral health division and the community services branch and any other Milwaukee County governmental unit that has information necessary for the performance of the audit shall cooperate with the department of health services or the contractor of the department of health services for the performance of the audit.

(END INSERT 46-4)

under paragraph (a)
↑
use auto ref

from page 4

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0344/P1dn
TJD: /:.....

Date

g's

To Representative Sanfelippo:

Please carefully review this preliminary draft of the substitute amendment to 2013 Assembly Bill 718 to ensure it complies with your intent, especially the budget and reserve fund language in s. 51.41 (4).

Board appointments

The requested changes to the appointment of the Milwaukee County mental health board members are problematic. I discussed the options with another drafter more familiar with governmental units. First, the appointment of the members of the board directly by the Milwaukee County executive is very likely an impermissible delegation of state executive branch authority. If the board remains a state board attached to a state agency, this is not really an option.

The option of having the county executive select the individual that the governor will nominate for appointment is also problematic. We could not find precedent for a board on which more than half of the members are selected by an individual other than an executive branch officer or the governor. Under this option, all of the members of this board would be serving either ex officio or by selection of someone other than a member of the state's executive branch. Sending the governor a list of individuals to choose from is not problematic, but sending the governor a name of the only person he may appoint is not that different from having the other person make the nomination directly. This could easily be challenged and a court may see this as a thinly veiled delegation of executive branch authority. Having all the board members appointed this way means that the court could invalidate the entire board. Furthermore, if the county executive and governor are not cooperating, the county executive could force a governor to nominate undesirable individuals to this state board but those individuals would probably be considered in the court of public opinion as the governor's nominees anyway. Please consider very carefully if you really want to use this option; it just has not been done before.

seventh

In the interest of providing a compromise option, this draft of the substitute amendment leaves much of the appointment procedure as it was in the bill. For the 7th to the 9th board members, the draft requires the county executive and county board to make the suggestions to the governor just as for the other six voting board members who are not serving ex officio. The draft then requires the governor to make all

ninth

four

made
nominations for voting members who are not serving ex officio in consultation with the Milwaukee County executive. If this is not satisfactory, the alternative seems to be to create the board either within county government or create an authority. You can also narrow the number of suggestions made to the governor to three. The bottom line is that an executive branch officer really needs to appoint much of an executive branch board in a meaningful way to be safe from court challenges. either

Appointment of a transition liaison.

I spoke to Josh about the appointment of an individual who would assist the Milwaukee County mental health board in the transition of oversight functions. I did not have explicit instructions as to who would make this appointment or how this position would be funded, and therefore, this substitute amendment draft does not include this appointment. ✓

Department of Health Services audit.

I did not receive requested language from the Department of Health Services relating to the audit and report, but I did discuss the language with Sandy Rowe of DHS. Therefore, please carefully review the nonstatutory provision to ensure it complies with your intent and the intent of DHS. There is no provision in the draft for the expenses of this audit. Perhaps DHS is intending to absorb the cost in its mental health budget. Please advise if you want the county to pay the costs of this audit. ✓

Should you have any questions or concerns, please contact me. ✓

Tamara J. Dodge
Legislative Attorney
Phone: (608) 267-7380
E-mail: tamara.dodge@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0344/P1dn
TJD:cjs:rs

March 3, 2014

To Representative Sanfelippo:

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In the interest of providing a compromise option, this draft of the substitute amendment leaves much of the appointment procedure as it was in the bill. For the seventh to the ninth board members, the draft requires the county executive and county board to make the four suggestions to the governor just as for the other six voting board members who are not serving *ex officio*. The draft then requires the

governor to make all nominations for voting members who are not serving ex officio in consultation with the Milwaukee County executive. If this is not satisfactory, the alternative seems to be either to create the board within county government or to create an authority. You can also narrow the number of suggestions made to the governor to three. The bottom line is that an executive branch officer really needs to appoint much of an executive branch board in a meaningful way to be safe from court challenges.

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Should you have any questions or concerns, please contact me.

Tamara J. Dodge
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Phone: (608) 267-7380
E-mail: tamara.dodge@legis.wisconsin.gov

3/3 T/C w/ Josh

Transitional liaison

County executive appoints individual with MCMHB approval
Serves for 12 months except that county exec may extend
(This would be County employee paid for by county
mental health budget)

County exec sets job duties & may fire ^{services}
"individual who has knowledge of the ~~current~~ provided
by and the mental health system of Milwaukee
County to assist the MCMHB in the transition of
Oversight functions"

✓ Audit (DHS) - send report to Milwaukee County
board of supervisors Milwaukee County executive,
and to the legislature under section 13.172(2)
of the statutes.

✓ Require county to pay DHS audit through
same PR appropriation & agreement as
MCMHB expenses