



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2013 Senate Bill 565	Senate Substitute Amendment 1 and Senate Amendment 1 to Senate Substitute Amendment 1
<i>Memo published:</i> March 14, 2014	<i>Contact:</i> Laura Rose, Deputy Director (266-9791)

2013 Senate Bill 565 (the bill) makes various changes relating to Milwaukee County mental health functions, programs, and services and creates the Milwaukee County Mental Health Board (MCMHB).

SENATE SUBSTITUTE AMENDMENT 1

Overview

Senate Substitute Amendment 1 (SSA 1) does all of the following:

- Transfers control of all mental health functions, programs, and services in Milwaukee County, including those relating to alcohol and other drug abuse, to the newly created MCMHB.
- Directs the Governor to make provisional appointments to the MCMHB within 60 days after SSA 1 goes into effect, and specifies that the provisional appointees may exercise all the powers and duties of their office. The MCMHB may begin to exercise jurisdiction over all mental health functions, programs, and services as soon as the Governor has made all the provisional appointments.
- Specifies how the budget for mental health in Milwaukee County will be developed, and requires the county to maintain effort regarding the amount of community aids funding it allocates for mental health, sets upper and lower limits on the amount of tax levy that may be budgeted for mental health.
- Prohibits the Milwaukee County Board of Supervisors (county board) from forming policies regarding mental health or mental health institutions, programs, or services.

- Requires the Department of Health Services (DHS) to perform or arrange for an operational and programmatic audit of the Behavioral Health Division of the Milwaukee County Department of Health and Human Services, the psychiatric hospital of the Milwaukee County Mental Health Complex, and the related behavioral health programs. A report containing recommendations for inpatient mental health treatment in Milwaukee County must be completed by December 1, 2014.
- Requires the county executive to nominate an individual to be a transition liaison to assist the MCMHB in the transition of oversight functions. The individual must have knowledge of the mental health systems of Milwaukee County and the services it provides. The nomination is subject to the approval of the MCMHB.
- Specifies that the MCMHB must make a commitment to community-based service delivery.
- Provides that the county board retains the primary responsibility for the well-being, treatment, and care of the developmentally disabled citizens residing within Milwaukee County, and for ensuring they receive emergency services when needed, except where the responsibility is delegated explicitly to the MCMHB.

These major provisions of SSA 1 are described in greater detail below.

SSA 1 also makes numerous statutory modifications necessary to implement the transfer of the functions and responsibilities relating to mental health in Milwaukee County that are currently carried out by the county board to the MCMHB. This memorandum does not describe all of those provisions of SSA 1. For a description of those provisions, see the items numbered 1. through 11. in the Legislative Reference Bureau Analysis of the bill. These provisions of the bill are not changed by SSA 1.

CREATION OF THE MILWAUKEE COUNTY MENTAL HEALTH BOARD

SSA 1 creates the MCMHB, which is attached to the Department of Health Services (DHS) for limited purposes.¹ The county board must arrange for payment of the expenses of the MCMHB from the Milwaukee County mental health budget under an agreement between the county board and DHS.

General Provisions That Apply to State Boards

Various provisions of existing law governing state boards apply the MCMHB. These provisions include, among others, all of the following:

¹ A board attached to a department for limited purposes exercises its powers, duties, and functions prescribed by law independently of the head of the department. Budgeting, program coordination, and related management functions are performed under the direction and supervision of the head of the department or independent agency. [See s. 15.03, Stats.]

Selection of Chairperson. At its first meeting in each year, every board must elect a chairperson, vice chairperson, and secretary each of whom may be reelected for successive terms. [s. 15.07 (2), Stats.]

Quorum. A majority of the membership of a board constitutes a quorum to do business and, unless a more restrictive provision is adopted by the board, a majority of a quorum may act in any matter within the jurisdiction of the board. [s. 15.07 (4), Stats.]

Reimbursement for expenses; compensation. The members of a board are reimbursed for their actual and necessary expenses incurred in the performance of their duties. The members receive no compensation for their services. [s. 15.07 (5), Stats.]

Reports. Every board attached to a department must submit to the head of the department, upon request of that person not more often than annually, a report on the operation of the board. [s. 15.07 (6), Stats.]

Official oath. Each member of a board must take and file the official oath prior to assuming office. [s. 15.07 (7), Stats.]

Open Records Law. The MCMHB is an “authority” and, therefore all of the records of the MCMHB are subject to the Open Records Law. [s. 19.32 (1), Stats.]

Open Meetings Law. The MCMHB is a “governmental body” and is subject to the public notice and open meeting requirements of the Open Meetings Law. [s. 19.82 (1), Stats.]

Ethics Code and Conflicts of Interest. Each member of the MCMHB is a state public official and is subject to the state Ethics Code. Each member is required to file a statement of economic interests with the Governmental Accountability Board every year. [s. 19.42 (10) (d) and (14), Stats.]

Among other things, the Ethics Code prohibits a state public official from taking actions that may constitute a conflict of interest, as follows:

- In general, no state public official may take any official action substantially affecting a matter in which the official, a member of his or her immediate family, or an organization with which the official is associated has a substantial financial interest. [s. 19.46 (1) (a), Stats.]
- No state public official may use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated. [s.19.45 (2), Stats.]
- No state public official may use or attempt to use the public position held by the public official to influence or gain unlawful benefits, advantages, or privileges personally or for others. [s. 19.45 (5), Stats.]

Method of Appointment of Members; Provisional Appointments

Under SSA 1, the Governor must nominate the members of the MCMHB and the nominations must be confirmed by the Senate. The Governor must consult with the county executive when nominating the voting members of the MCMHB.

SSA 1 directs the Governor to make provisional appointments, which may take effect before Senate confirmation, within 60 days after SSA 1 goes into effect. The individuals appointed in this manner may exercise all of the powers granted to MCMHB members, and the appointments remain in force until they are either withdrawn by the Governor or acted upon by the Senate. If confirmed by the Senate, they continue for the remainder of the term.

If a provisional appointment is rejected by the Senate, the appointment lapses and the Governor must nominate another individual to the position. In this situation, the nomination is subject to confirmation by the Senate. If the Governor withdraws a provisional appointment before it is acted on by the Senate, he may make another provisional appointment to the position.

MCMHB Membership

SSA 1 specifies that the MCMHB is made up of 11 voting members and two non-voting members. Nine of the voting members are nominated by the Governor; and two are ex officio. The non-voting members are health care providers employed by an institution of higher education.

The members of the MCMHB, other than the ex officio members, are appointed for four-year terms.

SSA 1 requires the county executive and the county board to submit lists of suggested appointees for several board positions. The county executive and county board must solicit suggestions for appointees from numerous organizations. Any person submitting suggestions or nominations for board members, must attempt to ensure that individuals suggested are among the most-qualified and experienced in their field.

No board member may be an employee of Milwaukee County at the time of nomination, and no board member may be a lobbyist or hold an elected office. SSA 1 also imposes restrictions on certain political activities of board members.

The voting members of the MCMHB must collectively possess cultural competency and reflect the population that is serviced by the Milwaukee County mental health system. "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 persons and families who provide mental health services in Milwaukee County.

Voting Members of the MCMHB

Under SSA 1, the MCMHB would have the following voting 11 members:

Two individuals who must each be either a psychiatrist or psychologist. The Governor must choose these members from lists of individuals suggested by the county board.

At least one of these positions must be filled by a psychologist. In other words, there may be two psychologists, or one psychologist and one psychiatrist in these positions, but not two psychiatrists.

The county board must provide one list of four suggested individuals for each position, and must solicit suggestions for individuals to fill these positions from organizations including the Wisconsin Medical Society, the Medical Society of Milwaukee, the Wisconsin Psychological Association, and the Wisconsin Psychiatric Association. For one of the positions, the county board must also solicit suggestions from the Wisconsin Association of Family and Children's Agencies for individuals who specialize in a full continuum of behavioral health services for children. For the other position, the county board must also solicit suggestions from the Milwaukee Co-Occurring Competency Cadre for individuals who specialize in a full continuum of behavioral health services for adults.

A representative of the community who is a consumer of mental health services. The Governor must choose this member from a list of four individuals suggested by the county board. The county board must solicit suggestions for individuals to fill this position who have experienced mental illness or substance abuse, from organizations including Warmline, the Milwaukee Mental Health Task Force, and the Milwaukee Co-Occurring Competency Cadre.

A psychiatric mental health advanced practice nurse prescriber. The Governor must choose this member from a list of four individuals suggested by the county board. The county board must solicit suggestions from organizations, including the Wisconsin Nurses Association for individuals who specialize in a full continuum of behavioral health and medical services including emergency detention, inpatient, residential, transitional, partial hospitalization, intensive outpatient, and wraparound community-based services.

An individual specializing in finance and administration. The Governor must choose this member from a list of four individuals suggested by the county executive. The county executive must solicit suggestions for individuals to fill this position from organizations including the Wisconsin Hospital Association, the Wisconsin County Human Services Association, and the Public Policy Forum, for individuals with experience in analyzing healthcare operating expenses, revenues, and reimbursement, knowledge of public and private funding and systems, and expertise in financial restructuring for sustainability.

A health care provider with experience in the delivery of substance abuse services. The Governor must choose this member from a list of four individuals suggested by the county executive. The county executive must solicit suggestions for individuals to fill this position from organizations including the Wisconsin Nurses Association, and the Milwaukee

Co-Occurring Competency Cadre for health care providers with experience in the delivery of substance abuse services.

An individual with legal expertise. The Governor must choose this member from a list of four individuals suggested by the county executive. The county executive must solicit suggestions for individuals to fill this position from organizations including the Legal Aid Society of Milwaukee, Legal Action of Wisconsin, Community Justice Counsel, and Disability Rights Wisconsin for individuals who have legal expertise specializing in emergency detention regulatory requirements including policies, procedures, provider responsibilities, and patient rights.

A health care provider representing community-based mental health service providers. The Governor must choose this member from a list of four individuals suggested by the county board. The county board must solicit suggestions from organizations including the Wisconsin Nurses Association, the Milwaukee Health Care Partnership, the Milwaukee Mental Health Task Force, and the Milwaukee Co-Occurring Competency Cadre for four health care providers representing community-based mental health service providers.

An individual who is a consumer or family member representing community-based mental health service providers. The Governor must choose this member from a list of four individuals suggested by the county executive. The county executive must solicit suggestions for this position from organizations including the Milwaukee Health Care Partnership, the Milwaukee Mental Health Task Force, and the Milwaukee Co-Occurring Competency Cadre for four consumers or family members representing community-based mental health service providers.

The chairperson of the Milwaukee County community programs board or his or her designee. If the chairperson of the county community programs board is an elected official, he or she shall designate a member of the county community programs board who is not an elected official to be a member of the MCMHB.

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

Non-Voting Members of the MCMHB

Under SSA 1, the MCMHB would have the following two non-voting members:

One health care provider who is an employee of a higher education institution suggested by the Medical College of Wisconsin and one health care provider who is an employee of a higher education institution suggested by the University of Wisconsin-Madison. These individuals must specialize in community-based, recovery-oriented mental health systems, maximizing comprehensive community-based services, prioritizing access to community-based services and reducing reliance on institutional and inpatient care, protecting the personal liberty of individuals experiencing mental illness so that they may be treated in the least restrictive environment to the greatest extent possible, providing early intervention to minimize the length and depth of psychotic and other mental health episodes, diverting

people from the corrections system, when appropriate, or maximizing the use of mobile crisis units and crisis intervention training.

Removal From the Board

The Governor may remove any board member for cause and must remove any member who violates the prohibitions against lobbying, political activity, being employed by Milwaukee County or holding elective office, described above.

If the county executive suggested a member for nomination, the county executive may remove the member for neglect of duty, misconduct, malfeasance in office, failure to attend four board meetings in one year, or failure to attend two board meetings within one year without providing advance notice to the chairperson of the board.

The county board has the same authority with regard to board members that it suggested for nomination.

DUTIES AND AUTHORITY OF THE MCMHB BOARD

Responsibility for the Mentally Ill and Alcoholic and Drug Dependent Citizens; General Duties

SSA 1 provides that the MCMHB has the primary responsibility for the well-being, treatment, and care of the mentally ill, alcoholic, and other drug dependent citizens residing within Milwaukee County and for ensuring that those receive immediate emergency services when needed.

Specifically, SSA 1 requires the MCMHB to do all of the following:

- Oversee the provision of mental health programs and services in Milwaukee County.
- Cooperate and consult with DHS on recommendations for and establishing policy for inpatient mental health treatment facilities and related programs in Milwaukee County.
- Allocate money for mental health functions, programs, and services in Milwaukee County within the budget amount determined by the formula established in SSA 1, as described below.
- Make the final determination on mental health policy in Milwaukee County.
- Carry out all mental health functions in Milwaukee County that are typically performed by a county board of supervisors.
- Attempt to achieve cost savings in the provision of mental health programs and services in Milwaukee County.

- Adopt policies regarding mental health and mental health institutions, programs, and services.

Required Meetings and Public Hearing

The MCMHB must meet at least six times each year. At least one of those meetings must be a public hearing held in Milwaukee County. As discussed above, the meetings of the MCMHB are subject to the public notice and open meetings requirements of the Wisconsin Open Meetings Law.

Method of Service Delivery Required

SSA 1 requires the MCMHB to facilitate delivery of mental health services in an efficient and effective manner by making a commitment to all of the following:

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

Contract Approval Authority

SSA 1 specifies that all contracts related to mental health with a value of at least \$100,000, to which Milwaukee County is a party must be approved by the MCMHB. Specifically, these contracts may take effect only if the MCMHB votes to approve, or does not vote to reject the contract, within 28 days after the contract is signed or countersigned by the county executive.

Authority to Request Information; Other Agencies Required to Cooperate

SSA 1 authorizes the MCMHB to request information from the Milwaukee Mental Health Complex, the county department of human services, the county community programs department under s. 51.42, Stats., and any other Milwaukee County governmental unit that possesses mental health information in order to fulfill its duties of overseeing mental health functions, programs, and services in Milwaukee County.

SSA 1 prohibits a county department under s. 46.21 or 51.42, Stats., in Milwaukee County from impeding the MCMHB in performing its duties or exercising its powers and requires them to respond to any requests for information from the MCMHB.

Authority to Transfer Jurisdiction to Itself with DHS Approval

SSA 1 authorizes the MCMHB, with approval of the DHS Secretary, to transfer to itself jurisdiction over any Milwaukee County function, service, or program that pertains to mental health or is highly integrated with mental health services and that is not already under its jurisdiction. The MCMHB may achieve a transfer by an affirmative vote of eight of its voting members of the MCMHB, if the DHS Secretary approves the transfer.

As discussed below, if the MCMHB transfer jurisdiction to itself in this manner, the county tax levy for mental health may be increased accordingly.

Authority to Establish and Operate an Entity to Provide Mental Health Services

SSA 1 authorizes the MCMHB, together with a private or public organization or affiliation, to organize, establish, and participate in the governance and operation of an entity to operate, wholly or in part, any mental health-related service. The MCMHB is also authorized to participate in the financing of the entity, and to provide administrative and financial services or resources for its operation.

Payroll and Human Resources Procedures

SSA 1 specifies that the MCMHB may change payroll and human resource procedures only for the divisions, branches, and functions of the Milwaukee County Department of Health and Human Services that relate to mental health and only as specifically authorized in SSA 1.

MILWAUKEE COUNTY MENTAL HEALTH BUDGET

The MCMHB is authorized to allocate money for mental health functions, programs, and services in Milwaukee County within the budget amount specified in SSA 1, as described below.

MCMHB Proposal

SSA 1 provides that the MCMHB must annually propose a mental health budget to the county executive. The proposal must specify how much of the total proposed mental health budget consists of: (a) community aids funding; (b) the county tax levy; and (c) patient revenues, and all other sources, which may include grants, private contributions, gifts, and bequests. The MCMHB may not propose a tax levy amount that is less than \$53 million or more than \$65 million, except as provided below.

County Executive Budget

The county executive is not required to include the tax levy amount recommended by the MCMHB in his or her proposed budget, but must include a tax levy amount of at least \$53 million and not more than \$65 million for the mental health budget.

County Board Budget

The county board must incorporate all of the following amounts into the budget for Milwaukee County for mental health every fiscal year:

- The tax levy amount proposed by the county executive, which must be at least \$53 million and not more than \$65 million unless one of the following applies: (a) a majority of the MCMHB, a majority of the county board and the county executive all agree to a different amount; or (b) the MCMHB assumes responsibility for a function, service, or program, as described below.
- Community aids funding that is the same or more than the amount allocated to mental health functions, programs, and services in the previous fiscal year (subject to the availability of community aids funds from the state).
- All amounts proposed by the MCMHB that are not tax levy funds or community aids funds.

Transfer of Function, Service, or Program to the MCMHB

If the MCMHB transfers to itself jurisdiction of a function, service, or program over which it did not previously have jurisdiction, the tax levy amount in the county budget for mental health is increased by an amount equal to the amount derived from the tax levy that was expended by Milwaukee County on that function, service, or program in the fiscal year before the fiscal year in which it is transferred. The \$65 million tax levy limit may be exceeded by this amount in any year that the MCMHB has jurisdiction over the transferred function, service, or program.

Reserve Fund

SSA 1 requires the Milwaukee County treasurer to hold any funds budgeted for mental health functions, programs, and services that are not encumbered or expended at the end of a fiscal year in a mental health reserve fund. Money 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.

TRANSITION LIAISON POSITION

SSA 1 requires the county executive to nominate an individual to be a transition liaison to assist the MCMHB in the transition of oversight functions. The individual must have

knowledge of the mental health systems of Milwaukee County and the services they provide. The nomination is subject to the approval of the MCMHB.

The transition liaison may be assigned to that position for no longer than 12 months, unless the county executive grants an extension.

The county executive determines the salary, benefits and the job duties of the transition liaison and may remove him or her and nominate another transition liaison.

The county board may not hire, remove, or discipline, set the salary or benefits of, or assign or remove any job duties of the transition liaison.

COUNTY BOARD ACTIONS PROHIBITED

SSA 1 prohibits the county board from forming policies regarding mental health or mental health institutions, programs, or services.

SSA 1 eliminates the county board's authority to adopt policies for the management, operation, maintenance and improvement of the mental health complex or any mental health institution.

SSA 1 prohibits the county board from exercising jurisdiction over any mental health policy, functions, programs, or services. The county board is prohibited from creating any new mental health functions, programs, or services and placing them under its jurisdiction. If any dispute arises between the county board and the MCMHB over whether a function, program, or service should be under the jurisdiction of the MCMHB, the Secretary of DHS must resolve the dispute.

SSA 1 prohibits the county board from selling the Milwaukee County Mental Health Complex without approval of the MCMHB.

SSA 1 eliminates the authority of the county board to exercise approval or disapproval over any contract relating to mental health or mental health institutions, programs, or services.

SSA 1 eliminates the authority of the county board to set the salary of the superintendent of any mental health institution and the salaries of any visiting physicians and other officers and employees whose duties are related to mental health. SSA 1 provides instead that these salaries are to be set by the county executive.

ADMINISTRATOR OF THE BEHAVIORAL HEALTH DIVISION

Appointment

SSA 1 directs the county executive to nominate an individual to be the administrator of the Behavioral Health Division of the Milwaukee County Department of Human Services. The individual may be hired as the administrator only upon approval of the MCMHB. If the county executive does not nominate an individual by June 1, 2015, the MCMHB may hire an individual to be the administrator. If the position becomes vacant and the county executive

does not nominate an individual within 12 months of the date the position becomes vacant, the MCMHB may hire an individual to be the administrator.

Salary and Benefits; Job Duties

SSA 1 directs the county executive to determine the salary, benefits, and the job duties of the administrator of the behavioral health division. 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 county board is specifically prohibited from hiring, removing, disciplining, or setting the salary or benefits of the administrator of the behavioral health division. The county board is also prohibited from assigning him or her any job duties or removing any of his or her duties.

Removal

The administrator of the behavioral health division may be removed by the MCMHB by a vote of eight members. However, if the county executive recommends removal of the administrator to the MCMHB, the MCMHB may remove the administrator upon a vote of six members.

AUDIT AND REPORT BY DEPARTMENT OF HEALTH SERVICES

SSA 1 requires DHS to perform or arrange for an operational and programmatic audit of the behavioral health division of the Milwaukee County department of health and human services, the psychiatric hospital of the Milwaukee County mental health complex, and the related behavioral health programs. DHS may enter into a contract for the performance of the audit.

By December 1, 2014, DHS or the person with whom DHS has entered into a contract for the audit must submit a report of the findings of the audit, including recommendations for inpatient mental health treatment in Milwaukee County, to the DHS secretary, who must in turn submit a copy of the report to the MCMHB, the county board, the county executive, and the legislature.

SSA 1 requires the MCMHB, the behavioral health division and the community services branch of the Milwaukee County department of health and human services, and any other Milwaukee County governmental unit that has information necessary for the performance of the audit, to cooperate with DHS or the contractor for the performance of the audit.

The county board must arrange for payment of expenses of the performance of the audit and the completion of the report from the Milwaukee County mental health budget under an agreement between the county board and DHS.

MCMHB REPORTING AND STUDY REQUIREMENTS

Annual Report

SSA 1 requires the MCMHB to submit a report to the county executive, the county board, and DHS By March 1, 2015, and annually by March 1 thereafter. The report must include the following:

- A description of the funding allocations for Milwaukee County's mental health functions, services, and programs.
- A description of any improvements and efficiencies in those mental health functions, programs, and services.
- DHS must provide public access to the report by posting it on the DHS website.

Study on Alternate Funding Sources

SSA 1 directs the MCMHB to arrange for a study to be conducted on alternate funding sources for mental health services and programs including fee-for-service models, managed care models that integrate mental health services into the contracts with an increased offset through basic county allocation reduction, and other funding models.

The MCMHB must submit a report of the results of the study to the county board, the county executive, and DHS by March 1, 2016.

AUDIT BY LEGISLATIVE AUDIT BUREAU

SSA 1 directs the Legislative Audit Bureau (LAB) to perform a financial and performance evaluation audit of the MCMHB and of mental health functions, programs, and services in Milwaukee County. The audit must include a review of all of the following:

- The effectiveness of the MCMHB and new policies it implements in providing mental health services.
- The expenditures of the MCMHB.
- Milwaukee County's expenditures for mental health functions, programs, and services.
- The outcomes of Milwaukee County's mental health programs and services in the period after the formation of the MCMHB.

The LAB must complete the audit by January 1, 2017, and perform a similar audit every two years thereafter. The LAB must file a copy of the audit report with all of the following:

- The MCMHB.
- The county executive.

- The county board of supervisors.
- The chief clerk of each house of the Legislature.
- The Governor.
- The Department of Administration.
- The Legislative Reference Bureau.
- The Joint Committee on Finance.
- The Legislative Fiscal Bureau.

SENATE AMENDMENT 1 TO SENATE SUBSTITUTE AMENDMENT 1

Advanced Practice Nurse Prescriber Member of the MCMHB

SSA 1 specifies that one member of the MCMHB must be a psychiatric mental health advanced practice nurse **prescriber**. Senate Amendment 1 (the amendment) eliminates the requirement that this member be a prescriber. Thus, under the amendment, one member of the MCMHB must be a psychiatric mental health advanced practice nurse. This change applies when the MCMHB is initially established as a state board and when it transitions to becoming a county entity on January 1, 2015, as described below.

Transition of MCMHB to a County Entity

SSA 1 creates the MCMHB, attached to the Department of Health Services (DHS) for limited purposes. Under the amendment, the MCMHB is reconstituted as a Milwaukee County entity on January 1, 2015. All statutory references to the state MCMHB are repealed as of that date, and Milwaukee County is required to establish the MCMHB, a county entity, on that date. The MCMHB as a county entity has all of the same functions, authority, and responsibility as does the state MCMHB under SSA 1.

Re-Appointment of Individuals Serving as Members of State Board Required

The amendment requires the Milwaukee County executive (county executive) to appoint all of the individuals who are serving on the state MCMHB on January 1, 2015 to the new county MCMHB. After those individuals serve the remainder of their terms, the county executive will make all future appointments to the MCMHB. The county executive is also authorized to make appointments in the case of any vacancies. Appointments by the county executive are not subject to approval of the Milwaukee County Board (county board).

Membership Requirements; Future Appointments; Removal

The required qualifications for membership on the county MCMHB are the same as those which apply to the state MCMHB under SSA 1. As discussed above, the county executive must appoint all of the members of the state MCMHB to the county MCMHB. After those terms expire, or in the case of any vacancies, the county executive carries out the

appointment functions that the Governor carries out under SSA 1. Under the amendment, the county executive must solicit suggestions from the same groups as the Governor must under SSA 1, but the county executive is not required to choose from among those suggestions. The county executive must select from the lists of suggested individuals provided by the county board.

If the county board chooses to suggest a member of the MCMHB for reappointment to his or her position, the county board is not required to solicit suggestions from organizations and is not required to submit an additional three suggestions to the county executive for that appointment.

If the county executive chooses to reappoint a member of the MCMHB to his or her position, he or she is not required to solicit suggestions from organizations for that appointment.

No individual may serve more than two consecutive terms in a membership position for which suggestions for nomination are made by the same individual or entity, unless one of their three terms is for less than two years. An individual who has served the maximum number of consecutive terms is eligible to be suggested for nomination as a member of the MCMHB after 12 months have elapsed since the end of their most recent term.

The county executive may, for cause, remove any board member for whom the county executive solicited suggestions for nominations and must remove any member who violates the prohibitions against lobbying, political activity, being employed by Milwaukee County, or holding elective office.

If the county board suggested a member for nomination, the county board may remove the member for cause.

Requirements Applicable to MCMHB as a County Entity

The MCMHB, as a county entity, is subject to the Open Records Law and the Open Meetings Law. The amendment specifies that the following provisions that apply to the state MCMHB under SSA 1 will continue to apply to the MCMHB when it becomes a county entity.

Meetings. The MCMHB must hold at least six meetings per year, one of which must be a public hearing in Milwaukee County.

Selection of Chairperson. At its first meeting in each year, the MCMHB must elect a chairperson, vice chairperson, and secretary each of whom may be reelected for successive terms.

Quorum. A majority of the membership of a board constitutes a quorum to do business and, unless a more restrictive provision is adopted by the MCMHB. A majority of a quorum may act in any matter within the jurisdiction of the MCMHB.

Reimbursement for Expenses; Compensation. The members of the MCMHB are reimbursed for their actual and necessary expenses incurred in the performance of their duties. The members receive no compensation for their services.

Code of Ethics for Local Government Officials. The amendment specifies that after the transition of the MCMHB to a county entity, the members of the MCMHB will become local public officials subject to the Code of Ethics for Local Government Officials. [s. 19.59, Stats.] Among other things, that code specifies that, in general, no local public official may do any of the following:

- Take any official action substantially affecting a matter in which the official, a member of his or her immediate family, or an organization with which the official is associated has a substantial financial interest.
- Use his or her office or position in a way that produces or assists in the production of a substantial benefit, direct or indirect, for the official, one or more members of the official's immediate family either separately or together, or an organization with which the official is associated.
- Use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated. [s. 19.42 (1) (a) and (c), Stats.]

Transfer of Jurisdiction Over Mental Health Functions to the MCMHB

SSA 1 authorizes the MCMHB, with approval of the DHS Secretary, to transfer to itself jurisdiction over any Milwaukee County function, service, or program that pertains to mental health or is highly integrated with mental health services and that is not already under its jurisdiction. The MCMHB may achieve a transfer by an affirmative vote of eight of its voting members of the MCMHB, if the DHS Secretary approves the transfer.

The amendment modifies this provision to require that a transfer of jurisdiction may not occur unless a majority of the members of the MCMHB and a majority of the members of the county board approve the transfer.

The amendment also deletes the provision in SSA 1 that provides that in any dispute between the county board and the MCMHB over whether a function, program, or service is a mental health function, program, or service under the jurisdiction of the MCMHB must be resolved by the Secretary of DHS.

Transition Liaison

SSA 1 establishes the position of transition liaison to assist the MCMHB in the transition of oversight functions. The amendment specifies that among the other duties of the transition liaison, he or she must ensure there is no interruption of mental health services.

RECOMMENDATIONS RELATING TO CLOSING THE MILWAUKEE MENTAL HEALTH COMPLEX

SSA 1 requires DHS to perform or arrange for an operational and programmatic audit of the behavioral health division of the Milwaukee County Department of Health and Human Services, the psychiatric hospital of the Milwaukee County Mental Health Complex, and the related behavioral health programs. DHS may enter into a contract for the performance of the audit. The audit and a report of the findings of the audit must be completed by December 1, 2014.

The amendment requires the audit to include recommendations for all of the following:

- The state assuming oversight responsibility for emergency detention services and the psychiatric hospital of the Milwaukee County Mental Health Complex.
- Developing a plan for closing the Milwaukee County Mental Health Complex.
- Developing a plan for state oversight of a regional facility for the delivery of institutional, inpatient, crisis services, and behavioral health services using similar state-operated regional facilities as a model.

The amendment also requires the audit to provide details and specifications on how, after the transitioning of the county-run institutional model to a state-based regionalized model, the state-based MCMHB will transition to a county-based board, the positions on the MCMHB will transition to a community-based focus, the funding for inpatient services and community-based services will continue, and mental health services will be delivered in a manner that reflects all of the following principles:

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

Bill History

Senator Vukmir offered SSA 1 on March 4, 2014. On March 7, 2014, the Senate Committee on Health and Human Services voted to recommend adoption of SSA 1 on a vote of Ayes, 5; Noes, 0. The Committee voted to recommend passage of the bill, as amended, on a vote of Ayes, 3; Noes, 2.

On March 11, 2014, Senators Carpenter, Taylor, and Vukmir offered Senate Amendment 1 (SA 1) to SSA 1. On that same date, the Senate adopted SA 1 and SSA 1, as amended by SA 1, both on voice votes, and then passed the bill, as amended, on a vote of Ayes, 33; Noes, 0.

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