

AMENDED IN SENATE AUGUST 9, 2016

AMENDED IN SENATE AUGUST 8, 2016

AMENDED IN ASSEMBLY APRIL 14, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1628

Introduced by Committee on Budget (Assembly Members Ting (Chair), Bloom, Bonta, Campos, Chiu, Cooper, Gordon, Holden, Irwin, McCarty, Mullin, Nazarian, O'Donnell, Rodriguez, Thurmond, and Williams)

January 7, 2016

An act to add Section 15463 to the Government Code, and to amend Sections 5849.1, 5849.2, 5849.3, 5849.4, 5849.5, 5849.7, 5849.8, 5849.9, 5849.11, 5849.14, 5890, and 5891 of, to add Section 5849.35 to, and to repeal and add Section 5849.13 of, the Welfare and Institutions Code, relating to mental health services, and making an appropriation therefor, to take effect immediately, bill related to the budget.

LEGISLATIVE COUNSEL'S DIGEST

AB 1628, as amended, Committee on Budget. No Place Like Home Program: financing.

(1) The Mental Health Services Act (MHSA), an initiative measure enacted by the voters as Proposition 63 at the November 2, 2004, statewide general election, imposes a 1% tax on that portion of a taxpayer's taxable income that exceeds \$1,000,000 and requires that the revenue from that tax be deposited in the Mental Health Services Fund to fund various county mental health programs. The MHSA authorizes the Legislature to amend its provisions by a 2/3 vote, provided that the amendment is consistent with and furthers the intent of the act.

Existing law, known as the No Place Like Home Program, requires the Department of Housing and Community Development to award \$2,000,000,000 among counties to finance capital costs, including, but not limited to, acquisition, design, construction, rehabilitation, or preservation, and to capitalize operating reserves, of permanent supportive housing for the target population, as specified. Existing law requires the department to distribute \$1,800,000,000 through a competitive program and to allocate \$200,000,000 among all counties within this state on an “over-the-counter” population basis.

The bill would authorize the California Health Facilities Financing Authority and the department to, among other things, enter into contracts to provide services pursuant to the No Place Like Home Program related to permanent supportive housing. The bill would also authorize the authority to issue taxable or tax-exempt revenue bonds in an amount not to exceed \$2,000,000,000 for these purposes and to make secured or unsecured loans to the department in connection with financing permanent supportive housing pursuant to the No Place Like Home Program. The bill would require that the dollar limit on amounts distributed under the No Place Like Home Program be based on the principal amount of bonds issued by the authority and loaned to the department.

The bill would additionally authorize the use of moneys in the Mental Health Services Fund for the purposes of the No Place Like Home Program. The bill would also establish and continuously appropriate the Supportive Housing Program Subaccount in the Mental Health Services Fund. The bill would require the Controller, prior to any transfer, deposit, or expenditure from the fund for any other purpose, to transfer from the Mental Health Services Fund to the Supportive Housing Program Subaccount an amount necessary to cover the costs the authority is required to pay to the department pursuant to an above-described service contract, as determined by the authority but not to exceed an aggregate amount of ~~one hundred forty million~~ (\$140,000,000) \$140,000,000 per year. The bill would prohibit moneys in the Supportive Housing Subaccount from being loaned to the General Fund pursuant to specified statutes.

The bill would exempt service contracts between the department and the authority pursuant to these provisions from specified public contracting laws. The bill would also exempt loan agreements between the department and the authority and revenue bonds issued by the authority from any other law applicable to the execution of those

agreements or issuance of those bonds, including the California Environmental Quality Act.

(2) Existing law establishes the No Place Like Home Fund and continuously appropriates the moneys in this fund to the Department of Housing and Community Development for the purposes of the No Place Like Home Program. Existing law requires the deposit *into the fund* of, among other moneys, any proceeds from the issuance of bonds by the Treasurer.

This bill would instead require the department to deposit into the fund the proceeds of loans derived from the issuance of bonds under this bill by the California Health Facilities Financing Authority. The bill would additionally continuously appropriate moneys in the fund to the Treasurer and the authority for purposes of the No Place Like Home Program.

(3) Existing law requires counties to annually report specified information to the Department of Housing and Community Development on activities funded under the No Place Like Home Program, including information on the funded supportive housing development. Existing law also requires the department to report specified information on the program to the Legislature by December 31 of each year, commencing with the year after the first full year in which the program is in effect.

This bill would require the department to monitor compliance by counties with the grant and loan agreements and regulatory agreements pursuant to which funds are distributed pursuant to the competitive portion of the No Place Like Home Program and enforce those agreements to the extent necessary and desirable in order to provide, to the greatest degree possible, the successful provision of permanent supportive housing. The bill would require the department to submit a report to the California Health Facilities Financing Authority by December 31 of each year, commencing with the year after the first full year in which the program is in effect, that contains specified information about the counties participating in the program and the services that have been provided pursuant to any service contracts between the department and the authority, as described above.

(4) Existing law establishes a procedure by which a public agency may bring an action in the superior court to determine the validity of any matter authorized by other law. Existing law authorizes an action under this procedure to determine the legality of any action by the Department of Housing and Community Development related to the No Place Like Home Program. Existing law requires the department to

issue its first request for proposal for the competitive program no later than 180 days, and to make its first allocation of “over-the-counter” funds within 60 days, after the deadline for appeals under the validation procedure.

This bill would recast this authorization to instead authorize an action to determine the validity of any service contract or loan agreement between the department and the California Health Facilities Financing Authority, as described above, in accordance with specified provisions governing actions to determine the validity of bonds, warrants, contracts, obligations, or evidences of indebtedness. The bill would instead require the department to issue its first request for proposal no later than 180 days, and to make its first allocation of “over-the-counter” funds as soon as reasonably practical, but no later than 150 days, after the effective date of a final judgment with no further opportunity for appeals, in any court proceeding affirming the validity of the service contracts between the department and the authority and any bonds issued by the authority.

(5) Existing law authorizes the Department of Finance to authorize a loan from the General Fund to the No Place Like Home Fund for cashflow purposes in an amount not to exceed \$1,000,000. Existing law requires that a loan comply with certain requirements, including that the purpose of the loan is to allow the department to begin implementation activities related to the No Place Like Home Program, including drafting program guidelines and regulations.

This bill would instead authorize the Department of Finance to authorize one or more loans from the General Fund to the No Place Like Home Fund in an aggregate amount not to exceed \$2,000,000. The bill would additionally authorize loans for the purpose of allowing the Department of Housing and Community Development, the California Health Facilities Financing Authority, and the Treasurer to implement the above-described provisions pertaining to service contracts and loan agreements between the department and the authority and revenue bonds issued by the authority.

(6) Existing law makes various findings and declarations regarding the No Place Like Home Program.

This bill would make additional findings and declarations pertaining to the financing and implementation of the No Place Like Home Program. The bill would also make various technical and conforming changes to the No Place Like Home Program.

(7) This bill would declare that its provisions further the intent of the MHSA.

(8) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 15463 is added to the Government Code,
2 to read:

3 15463. (a) For purposes of this section, the following
4 definitions shall apply:

5 (1) “No Place Like Home Program” has the same meaning as
6 “program” as defined in Section 5849.2 of the Welfare and
7 Institutions Code.

8 (2) “No Place Like Home Fund” means the No Place Like Home
9 Fund established pursuant to Section 5849.4 of the Welfare and
10 Institutions Code.

11 (3) “Permanent supportive housing” has the same meaning as
12 “supportive housing” as defined in Section 50675.14 of the Health
13 and Safety Code, except that “permanent supportive housing” shall
14 include associated facilities if used to provide services to housing
15 residents.

16 (b) The authority may issue taxable or tax-exempt revenue bonds
17 in an amount not to exceed two billion dollars (\$2,000,000,000),
18 exclusive of refunding bonds but including any net premium
19 derived from the sale of the bonds, pursuant to Sections 15441 to
20 15450, inclusive, for the purpose of financing permanent supportive
21 housing pursuant to the No Place Like Home Program or to refund
22 bonds previously issued pursuant to this section. The authority
23 may also utilize bond proceeds to fund necessary reserves,
24 capitalized interest, credit enhancement or liquidity costs, or costs
25 of issuance.

26 (c) The authority may make secured or unsecured loans to the
27 Department of Housing and Community Development in
28 connection with financing permanent supportive housing pursuant
29 to the No Place Like Home Program or to refund bonds previously
30 issued pursuant to this section, in accordance with an agreement

1 between the authority and the Department of Housing and
2 Community Development.

3 (d) The authority may enter into any agreement for credit
4 enhancement or liquidity, execute any instruments, and do any
5 other acts it deems necessary, convenient, or desirable in
6 connection with revenue bonds issued pursuant to this section or
7 carry out any power expressly granted pursuant to this section.

8 (e) (1) This section provides a complete, additional, and
9 alternative method for performing the acts authorized by this
10 section and shall be construed as supplemental and additional to
11 powers conferred by other laws; provided, however, that the
12 issuance of the bonds and refunding bonds and the execution of
13 any agreements under this section are not subject to, and need not
14 comply with, the requirements of any other law applicable to the
15 issuance of those bonds or refunding bonds and the execution of
16 those agreements, including, but not limited to, the California
17 Environmental Quality Act (Division 13 (commencing with Section
18 21000) of the Public Resources Code).

19 (2) Except as provided in paragraph (1), the financing of
20 permanent supportive housing pursuant to the No Place Like Home
21 Program pursuant to this section shall not exempt the permanent
22 supportive housing from the requirements of any other law
23 otherwise applicable to the project.

24 SEC. 2. Section 5849.1 of the Welfare and Institutions Code
25 is amended to read:

26 5849.1. (a) The Legislature finds and declares that this part is
27 consistent with and furthers the purposes of the Mental Health
28 Services Act, enacted by Proposition 63 at the November 2, 2004,
29 statewide general election, within the meaning of Section 18 of
30 that measure.

31 (b) The Legislature further finds and declares all of the
32 following:

33 (1) Housing is a key factor for stabilization and recovery to
34 occur and results in improved outcomes for individuals living with
35 a mental illness.

36 (2) Untreated mental illness can increase the risk of
37 homelessness, especially for single adults.

38 (3) California has the nation's largest homeless population that
39 is disproportionately comprised of women with children, veterans,
40 and the chronically homeless.

1 (4) California has the largest number of homeless veterans in
2 the United States at 24 percent of the total population in our nation.
3 Fifty percent of California’s veterans live with serious mental
4 illness and 70 percent have a substance use disorder.

5 (5) Fifty percent of mothers experiencing homelessness have
6 experienced a major depressive episode since becoming homeless
7 and 36 percent of these mothers live with post-traumatic stress
8 disorder and 41 percent have a substance use disorder.

9 (6) Ninety-three percent of supportive housing tenants who live
10 with mental illness and substance use disorders voluntarily
11 participated in the services offered.

12 (7) Adults who receive 2 years of “whatever-it-takes,” or Full
13 Service Partnership services, experience a 68 percent reduction in
14 homelessness.

15 (8) For every dollar of bond funds invested in permanent
16 supportive housing, the state and local governments can leverage
17 a significant amount of additional dollars through tax credits,
18 Medicaid health services funding, and other housing development
19 funds.

20 (9) Tenants of permanent supportive housing reduced their visits
21 to the emergency department by 56 percent, and their hospital
22 admissions by 45 percent.

23 (10) The cost in public services for a chronically homeless
24 Californian ranges from \$60,000 to \$100,000 annually. When
25 housed, these costs are cut in half and some reports show reductions
26 in cost of more than 70 percent, including potentially less
27 involvement with the health and criminal justice systems.

28 (11) Californians have identified homelessness as their top tier
29 priority; this measure seeks to address the needs of the most
30 vulnerable people within this population.

31 (12) Having counties provide mental health programming and
32 services is a benefit to the state.

33 (13) The Department of Housing and Community Development
34 is the state entity with sufficient expertise to implement and oversee
35 a grant or loan program for permanent supportive housing of the
36 target population.

37 (14) The California Health Facilities Financing Authority is
38 authorized by law to issue bonds and to consult with the Mental
39 Health Services Oversight and Accountability Commission and
40 the Department of Health Care Services concerning the

1 implementation of a grant *or loan* program for California counties
2 to support the development of programs that increase access to,
3 and capacity for, crisis mental health services. It is therefore
4 appropriate for *the authority to issue bonds and contract for*
5 *services with* the Department of Housing and Community
6 Development to provide grants or loans to California counties for
7 permanent supportive housing for the target population.

8 (15) Use of bond funding will accelerate the availability of
9 funding for the grant or loan program to provide permanent
10 supportive housing for the target population as compared to relying
11 on annual allocations from the Mental Health Services Fund and
12 better allow ~~countries~~ *counties* to provide permanent supportive
13 housing for homeless individuals living with mental illness.

14 (16) The findings and declarations set forth in subdivision (c)
15 of Section 5849.35 are hereby incorporated herein.

16 SEC. 3. Section 5849.2 of the Welfare and Institutions Code
17 is amended to read:

18 5849.2. As used in this part, the following definitions shall
19 apply:

20 (a) “At risk of chronic homelessness” includes, but is not limited
21 to, persons who are at high risk of long-term or intermittent
22 homelessness, including persons with mental illness exiting
23 institutionalized settings, including, but not limited to, jail and
24 mental health facilities, who were homeless prior to admission,
25 transition age youth experiencing homelessness or with significant
26 barriers to housing stability, and others, as defined in program
27 guidelines.

28 (b) “Authority” means the California Health Facilities Financing
29 Authority established pursuant to Part 7.2 (commencing with
30 Section 15430) of Division 3 of Title 2 of the Government Code.

31 (c) “Chronically homeless” has the same meaning as defined
32 in Section 578.3 of Title 24 of the Code of Federal Regulations,
33 as that section read on May 1, 2016.

34 (d) “Commission” means the Mental Health Services Oversight
35 and Accountability Commission established by Section 5845.

36 (e) “Committee” means the No Place Like Home Program
37 Advisory Committee established pursuant to Section 5849.3.

38 (f) “County” includes, but is not limited to, a city and ~~county~~
39 *county*, and a city receiving funds pursuant to Section 5701.5.

1 (g) “Department” means the Department of Housing and
2 Community Development.

3 (h) “Development sponsor” has the same meaning as “sponsor”
4 as defined in Section 50675.2 of the Health and Safety Code.

5 (i) “Fund” means the No Place Like Home Fund established
6 pursuant to Section 5849.4.

7 (j) “Homeless” has the same meaning as defined in Section
8 578.3 of Title 24 of the Code of Federal Regulations, as that section
9 read on May 1, 2016.

10 (k) “Permanent supportive housing” has the same meaning as
11 “supportive housing,” as defined in Section 50675.14 of the Health
12 and Safety Code, except that “permanent supportive housing” shall
13 include associated facilities if used to provide services to housing
14 residents.

15 (l) “Program” means the process for awarding funds and
16 distributing moneys to applicants established in Sections 5849.7,
17 5849.8, and 5849.9 and the ongoing monitoring and enforcement
18 of the applicants’ activities pursuant to Section 5849.8, 5849.9,
19 and 5849.11.

20 (1) “Competitive program” means that portion of the program
21 established by Section 5849.8.

22 (2) “Distribution program” means that portion of the program
23 described in Section 5849.9.

24 (m) “Target population” means individuals or households as
25 provided in Section 5600.3 who are homeless, chronically
26 homeless, or at risk of chronic homelessness.

27 SEC. 4. Section 5849.3 of the Welfare and Institutions Code
28 is amended to read:

29 5849.3. (a) There is hereby established the No Place Like
30 Home Program Advisory Committee. Membership on the
31 committee shall be as follows:

32 (1) The Director of Housing and Community Development, or
33 his or her designee, who shall serve as the chairperson of the
34 committee.

35 (2) The Director of Health Care Services, or his or her designee,
36 and an additional representative.

37 (3) The Secretary of Veterans Affairs, or his or her designee.

38 (4) The Director of Social Services, or his or her designee.

39 (5) The Treasurer, or his or her designee.

- 1 (6) The chair of the Mental Health Services Oversight and
- 2 Accountability Commission, or his or her designee.
- 3 (7) A chief administrative officer of a small county or a member
- 4 of a county board of supervisors of a small county, as provided by
- 5 subdivision (d) of Section 5849.6, to be appointed by the Governor.
- 6 (8) A chief administrative officer of a large county or a member
- 7 of a county board of supervisors of a large county, as provided by
- 8 subdivision (b) of Section 5849.6, to be appointed by the Governor.
- 9 (9) A director of a county behavioral health department, to be
- 10 appointed by the Governor.
- 11 (10) An administrative officer of a city, to be appointed by the
- 12 Governor.
- 13 (11) A representative of an affordable housing organization, to
- 14 be appointed by the Speaker of the Assembly.
- 15 (12) A resident of supportive housing, to be appointed by the
- 16 Governor.
- 17 (13) A representative of a community mental health
- 18 organization, to be appointed by the Senate Rules Committee.
- 19 (14) A representative of a local or regional continuum of care
- 20 organization that coordinates homelessness funding, to be
- 21 appointed by the Governor.
- 22 (b) The committee shall do all of the following:
- 23 (1) Assist and advise the department in the implementation of
- 24 the program.
- 25 (2) Review and make recommendations on the department’s
- 26 guidelines.
- 27 (3) Review the department’s progress in distributing moneys
- 28 pursuant to this part.
- 29 (4) Provide advice and guidance more broadly on statewide
- 30 homelessness issues.
- 31 SEC. 5. Section 5849.35 is added to the Welfare and
- 32 Institutions Code, to read:
- 33 5849.35. (a) The authority may do all of the following:
- 34 (1) Consult with the commission and the Department of Health
- 35 Care Services concerning the implementation of the No Place Like
- 36 Home Program, including the review of annual reports provided
- 37 to the authority by the department pursuant to Section 5849.11.
- 38 (2) Enter into one or more contracts with the department for the
- 39 department to provide, and the authority to pay the department for
- 40 providing, services described in Sections 5849,7, 5849.8, and

1 5849.9, related to permanent supportive housing for the target
2 population. Prior to entering into any contract pursuant to this
3 paragraph, the executive director of the authority shall transmit a
4 copy of the contract approved by the authority to the commission.
5 The contract shall be deemed approved by the commission unless
6 it acts within 10 days to disapprove the contract.

7 (3) On or before June 15 and December 15 of each year, the
8 authority shall notify the Controller of the amounts the authority
9 is required to pay as provided in Section 5890 for the following
10 six month period to the department pursuant to any service contract
11 entered into pursuant to paragraph (2).

12 (b) The department may do all of the following:

13 (1) Enter into one or more contracts with the authority to provide
14 services described in Section 5849.7, 5849.8, and 5849.9, related
15 to permanent supportive housing for the target population.
16 Payments received by the department under any service contract
17 ~~authorizes~~ *authorized* by this paragraph shall be used, prior to any
18 other allocation or distribution, to repay loans from the authority
19 pursuant to Section 15463 of the Government Code.

20 (2) Enter into one or more loan agreements with the authority
21 as security for the repayment of the revenue bonds issued by the
22 authority pursuant to Section 15463 of the Government Code. The
23 department shall deposit the proceeds of these loans, excluding
24 any loans relating to refunding bonds, into the fund. The
25 department's obligation to repay these loans shall be limited to
26 amounts received pursuant to its service contracts with the
27 authority.

28 (3) The department may assign its right to receive payments
29 under the service contracts entered into pursuant to paragraph (1)
30 directly to the authority or its bond trustee, which may be the
31 Treasurer.

32 (c) The Legislature hereby finds and declares both of the
33 following:

34 (1) The consideration to be paid by the authority to the
35 department for the services provided pursuant to the contracts
36 authorized by paragraph (2) of subdivision (a) and paragraph (1)
37 of subdivision (b) is fair and reasonable and in the public interest.

38 (2) The service contracts and payments made by the authority
39 to the department pursuant to a service contract authorized by
40 paragraph (2) of subdivision (a) and paragraph (1) of subdivision

1 (b) and the loan agreements and loan repayments made by the
2 department to the authority pursuant to a loan agreement authorized
3 by paragraph (2) of subdivision (b) shall not constitute a debt or
4 liability, or a pledge of the faith and credit, of the state or any
5 political subdivision.

6 (d) The state hereby covenants with the holders from time to
7 time of any bonds issued by the authority pursuant to Section 15463
8 of the Government Code that it will not alter, amend, or restrict
9 the provisions of this section, subdivision (f) of Section 5890, or
10 subdivision (b) of Section 5891 in any manner adverse to the
11 interests of those bondholders so long as any of those bonds remain
12 outstanding. The authority may include this covenant in the
13 resolution, indenture, or other documents governing the bonds.

14 (e) Agreements under this section are not subject to, and need
15 not comply with, the requirements of any other law applicable to
16 the execution of those agreements, including, but not limited to,
17 the California Environmental Quality Act (Division 13
18 commencing with Section 21000) of the Public Resources Code).

19 (f) Part 2 (commencing with Section 10290) of Division 2 of
20 the Public Contract Code shall not apply to any contract entered
21 into between the authority and the department under this section.

22 SEC. 6. Section 5849.4 of the Welfare and Institutions Code
23 is amended to read:

24 5849.4. (a) The No Place Like Home Fund is hereby created
25 within the State Treasury and, notwithstanding Section 13340 of
26 the Government Code, continuously appropriated to the
27 department, the authority, and the Treasurer for the purposes of
28 this part. Up to five percent of the amount deposited in the fund
29 may be used for administrative expenses in implementing this part.

30 (b) There shall be paid into the fund the following:

31 (1) Any moneys from the receipt of loan proceeds by the
32 department derived from the issuance of bonds by the authority
33 for the purpose of implementing the program.

34 (2) Any other federal or state grant, or from any private donation
35 or grant, for the purposes of this part.

36 (3) Any interest payment, loan repayments, or other return of
37 funds.

38 SEC. 7. Section 5849.5 of the Welfare and Institutions Code
39 is amended to read:

1 5849.5. The department may adopt guidelines or regulations,
2 including emergency regulations to expedite the award of moneys
3 pursuant to this part, in consultation with the California State
4 Association of Counties and other stakeholders, as necessary to
5 exercise the powers and perform the duties conferred or imposed
6 on it by this part. Any guideline or regulation adopted pursuant to
7 this section shall not be subject to the requirements of the
8 Administrative Procedure Act (Chapter 3.5 (commencing with
9 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
10 Code). The department shall consult with key stakeholders,
11 including, but not limited to, counties.

12 SEC. 8. Section 5849.7 of the Welfare and Institutions Code
13 is amended to read:

14 5849.7. (a) In order to finance permanent supportive housing
15 for the target population, the department may enter into one or
16 more contracts with the authority as authorized pursuant to Section
17 5849.35 to provide services for the benefit of the people of the
18 state as described in this section and Sections 5849.8 and 5849.9.
19 The department shall use its best efforts to provide or cause to be
20 provided permanent supportive housing for the target population
21 in consideration for service contract payments to be received from
22 the authority.

23 (b) In furtherance of its service obligations under any service
24 contract with the authority, the department shall administer a
25 competitive program, pursuant to Section 5849.8, and distribution
26 program, pursuant to Section 5849.9, for awarding a total amount
27 not to exceed two billion dollars (\$2,000,000,000) among counties
28 to finance capital costs including, but not limited to, acquisition,
29 design, construction, rehabilitation, or preservation, and to
30 capitalize operating reserves, of permanent supportive housing for
31 the target population. For purposes of this section and Section
32 5849.8 and 5849.9, measurement of the dollar limit on amounts
33 to be distributed by the department shall be based on the principal
34 amount of bonds issued by the authority and loaned to the
35 department, exclusive of any refunding bonds but including any
36 net premium derived from the sale of the bonds, for deposit in the
37 fund. There shall be no dollar limit on the distribution of moneys
38 in the fund derived from the sources described in paragraphs (2)
39 and (3) of subdivision (b) of Section 5849.4.

1 (c) For the competitive program established by Section 5849.8,
2 the following shall apply:

3 (1) A county may apply as the sole applicant if it is the
4 development sponsor or jointly with a separate entity as
5 development sponsor.

6 (2) Funded developments shall integrate the target population
7 with the general public.

8 (3) Funded developments shall utilize low barrier tenant
9 selection practices that prioritize vulnerable populations and offer
10 flexible, voluntary, and individualized supportive services.

11 (4) The guidelines may provide for alternative housing models,
12 such as shared housing models of fewer than five units. Integration
13 requirements may be modified in shared housing.

14 (5) Funds shall be offered as deferred payment loans to finance
15 capital costs including acquisition, design, construction,
16 rehabilitation, or preservation, and to capitalize operating reserves
17 of, permanent supportive housing for the target population.

18 (6) The department shall adopt guidelines establishing income
19 and rent standards.

20 SEC. 9. Section 5849.8 of the Welfare and Institutions Code
21 is amended to read:

22 5849.8. (a) In furtherance of the department’s obligations to
23 the authority under any service contract entered into pursuant to
24 Section 5849.35, the department may allocate an amount not to
25 exceed one billion eight hundred million dollars (\$1,800,000,000)
26 from the fund for the purposes of the competitive program
27 described in this subdivision and the alternative process described
28 in subdivision (b). The department shall develop a competitive
29 application process for the purpose of awarding moneys pursuant
30 to this section. In considering applications, the department shall
31 do all of the following:

32 (1) Restrict eligibility to applicants that meet the following
33 minimum criteria:

34 (A) The county commits to provide mental health supportive
35 services and to coordinate the provision of or referral to other
36 services, including, but not limited to, substance use treatment
37 services, to the tenants of the supportive housing development for
38 at least 20 years. Services shall be provided onsite at the supportive
39 housing development or in a location otherwise easily accessible
40 to tenants. The county may use, but is not restricted to using, any

1 of the following available funding sources as allowed by state and
2 federal law:

3 (i) The Local Mental Health Services Fund established pursuant
4 to subdivision (f) of Section 5892.

5 (ii) The Mental Health Account within the Local Health Welfare
6 Trust Fund established pursuant to Section 17600.10.

7 (iii) The Behavioral Health Subaccount within the County Local
8 Revenue Fund 2011 established pursuant to paragraph (4) of
9 subdivision (f) of Section 30025 of the Government Code.

10 (iv) Funds received from other private or public entities.

11 (v) Other county funds.

12 (B) The county has developed a county plan to combat
13 homelessness, which includes a description of homelessness
14 countywide, any special challenges or barriers to serving the target
15 population, county resources applied to address the issue, available
16 community-based resources, an outline of partners and
17 collaborations, and proposed solutions.

18 (C) Meet other threshold requirements including, but not limited
19 to, developer capacity to develop, own, and operate a permanent
20 supportive housing development for the target population,
21 application proposes a financially feasible development with
22 reasonable development costs.

23 (2) The department shall evaluate applications using, at
24 minimum, the following criteria:

25 (A) The extent to which units assisted by the program are
26 restricted to persons who are chronically homeless or at risk of
27 chronic homelessness within the target population.

28 (B) The extent to which funds are leveraged for capital costs.

29 (C) The extent to which projects achieve deeper affordability
30 through the use of non-state project-based rental assistance,
31 operating subsidies, or other funding.

32 (D) Project readiness.

33 (E) The extent to which applicants offer a range of on and
34 off-site supportive services to tenants, including mental health
35 services, behavioral health services, primary health, employment,
36 and other tenancy support services.

37 (F) Past history of implementing programs that use
38 evidence-based best practices that have led to the reduction of the
39 number of chronic homeless or at risk of chronic homelessness
40 individuals within the target population.

1 (b) The department may establish an alternative process for
2 allocating funds directly to counties, as calculated in Section
3 5849.6, with at least five percent of the state's homeless population
4 and that demonstrate the capacity to directly administer loan funds
5 for permanent supportive housing serving the target population
6 and the ability to prioritize individuals with mental health
7 supportive needs who are homeless or at risk of chronic
8 homelessness, consistent with this part and as determined by the
9 department. The department shall adopt guidelines establishing
10 the parameters of an alternative process, if any, and requirements
11 for local administration of funds, including, but not limited to,
12 project selection process, eligible use of funds, loan terms, rent
13 and occupancy restrictions, provision of services, and reporting
14 and monitoring requirements. Counties participating in the
15 alternative process shall not be eligible for the competitive process
16 and shall be limited to funds in proportion to their share of the
17 percentage of the statewide homeless population, as calculated by
18 the department in Section 5849.6. Funds not committed to
19 supportive housing developments within two years following award
20 of funds to counties shall be returned to the state for the purposes
21 of the competitive program. The department shall consider the
22 following when selecting participating counties:

23 (1) Demonstrated ability to finance permanent supportive
24 housing with local and federal funds, and monitor requirements
25 for the life of the loan.

26 (2) Past history of delivering supportive services to the target
27 population in housing.

28 (3) Past history of committing project-based vouchers to
29 supportive housing.

30 (4) Ability to prioritize the most vulnerable within the target
31 population through coordinated entry system.

32 (c) The department shall set aside 8 percent of funds offered in
33 Rounds 1 through 4, inclusive, for the competitive program for
34 small counties as provided in subdivision (d) of Section 5849.6.

35 (d) The department shall award funds for the competitive
36 program in at least four rounds as follows:

37 (1) The department shall issue its first request for proposal for
38 the competitive program no later than 180 days after the effective
39 date of a final judgment, with no further opportunity for appeals,
40 in any court proceeding affirming the validity of the contracts

1 authorized by the authority and the department pursuant to Section
2 5849.35 and any bonds authorized to be issued by the authority
3 pursuant to Section 15463 of the Government Code and any
4 contracts related to those bonds.

5 (2) The second round shall be completed no later than one year
6 after the completion of the first round.

7 (3) The third round shall be completed no later than one year
8 after the completion of the second round.

9 (4) The fourth round shall be completed no later than one year
10 after the completion of the third round.

11 (5) Subsequent rounds shall occur annually thereafter in order
12 to fully exhaust remaining funds and the department may
13 discontinue the use of the competitive groupings in Section 5849.6,
14 the alternative process in subdivision (b) for any funds not awarded
15 by the county, and the rural set aside funds as set forth in
16 subdivision (c).

17 (e) (1) Any loans made by the department pursuant to this
18 section shall be in the form of secured deferred payment loans to
19 pay for the eligible costs of development. Principal and
20 accumulated interest is due and payable upon completion of the
21 term of the loan, which shall be established through program
22 guidelines adopted pursuant to Section 5849.5. The loan shall bear
23 simple interest at a rate of three percent per annum on the unpaid
24 principal balance. The department shall require annual loan
25 payments in the minimum amount necessary to cover the costs of
26 project monitoring. For the first 15 years of the loan term, the
27 amount of the required loan payments shall not exceed forty-two
28 hundredths of 1 percent per annum.

29 (2) The department may establish maximum loan-to-value
30 requirements for some or all of the types of projects that are eligible
31 for funding under this part, which shall be established through
32 program guidelines adopted pursuant to Section 5849.5.

33 (3) The department shall establish per-unit and per-project loan
34 limits for all project types.

35 (f) (1) The department may designate an amount not to exceed
36 four percent of funds allocated for the competitive program, not
37 including funding allocated pursuant to subdivision (b), in order
38 to cure or avert a default on the terms of any loan or other
39 obligation by the recipient of financial assistance, or bidding at
40 any foreclosure sale where the default or foreclosure sale would

1 jeopardize the department's security in the rental housing
2 development assisted pursuant to this part. The funds so designated
3 shall be known as the "default reserve."

4 (2) The department may use default reserve funds made
5 available pursuant to this section to repair or maintain any rental
6 housing development assistance pursuant to this part to protect the
7 department's security interest.

8 (3) The payment or advance of funds by the department pursuant
9 to this subdivision shall be exclusively within the department's
10 discretion, and no person shall be deemed to have any entitlement
11 to the payment or advance of those funds. The amount of any funds
12 expended by the department for the purposes of curing or averting
13 a default shall be added to the loan amount secured by the rental
14 housing development and shall be payable to the department upon
15 demand.

16 (g) (1) Prior to disbursement of any funds for loans made
17 pursuant this section, the department shall enter into a regulatory
18 agreement with the development sponsor that provides for all of
19 the following:

20 (A) Sets standards for tenant selection to ensure occupancy of
21 assisted units by eligible households of very low and low income
22 for the term of the agreement.

23 (B) Governs the terms of occupancy agreements.

24 (C) Contains provisions to maintain affordable rent levels to
25 serve eligible households.

26 (D) Provides for periodic inspections and review of year-end
27 fiscal audits and related reports by the department.

28 (E) Permits a developer to distribute earnings in an amount
29 established by the department and based on the number of units
30 in the rental housing development.

31 (F) Has a term for not less than the original term of the loan.

32 (G) Contains any other provisions necessary to carry out the
33 purposes of this part.

34 (2) The agreement shall be binding upon the developer and
35 successors in interest upon sale or transfer of the rental housing
36 development regardless of any prepayment of the loan.

37 (3) The agreement shall be recorded in the office of the county
38 recorder in the county in which the real property subject to the
39 agreement is located.

1 (h) (1) The department shall monitor compliance by counties
2 of the grant and loan agreements and regulatory agreements
3 pursuant to which funds are distributed pursuant to this section,
4 and to which the department may be a third party beneficiary, and
5 enforce those agreements to the extent necessary and desirable in
6 order to provide, to the greatest degree possible, the successful
7 provision of permanent supportive housing.

8 (2) The department shall annually report to the authority the
9 status of its efforts pursuant to this section and Section 5849.9, as
10 set forth in Section 5849.11.

11 (i) The department may provide technical assistance to counties
12 or developers of supportive housing to facilitate the construction
13 of permanent supportive housing for target populations.

14 SEC. 10. Section 5849.9 of the Welfare and Institutions Code
15 is amended to read:

16 5849.9. (a) In furtherance of the department's obligations to
17 the authority under any service contract entered into under Section
18 5849.35, in addition to the competitive program established by
19 Section 5849.8, the department may distribute an amount not to
20 exceed two hundred million dollars (\$200,000,000) from the fund
21 on an "over-the-counter" basis to finance the construction,
22 rehabilitation, or preservation, and to capitalize operating reserves,
23 of permanent supportive housing for individuals in the target
24 population with a priority for those with mental health supportive
25 needs who are homeless or at risk of chronic homelessness. Funds
26 to be awarded pursuant to this section shall be available to all
27 counties within the state proportionate to the number of homeless
28 persons residing within each county as calculated in Section 5849.6
29 or in the amount of five hundred thousand dollars (\$500,000),
30 whichever is greater. A county receiving these funds shall commit
31 to provide mental health supportive services and coordinate the
32 provision of, or referral to, other services, including, but not limited
33 to, substance abuse treatment services, to the tenants of the
34 supportive housing development for at least 20 years. Services
35 shall be provided onsite at the supportive housing development or
36 at a location otherwise easily accessible to the tenants.

37 (b) Funds not awarded within 18 months following the first
38 allocation of moneys in accordance with subdivision (d) shall be
39 used for the purposes of the competitive program.

1 (c) The moneys described in subdivision (a) shall be
2 administered either in accordance with the procedures for awarding
3 funds to local agencies established by the existing Mental Health
4 Services Act housing program administered by the Department of
5 Health Care Services and the California Housing Finance Agency
6 or alternative procedures developed by the department for
7 distributing these moneys that enhance the efficiency and goals of
8 the distribution program.

9 (d) The department shall make the first allocation of moneys
10 pursuant to this section as soon as reasonably practical and in any
11 event no later than 150 days after the effective date of a final
12 judgment, with no further opportunity for appeals, in any court
13 proceeding affirming the validity of the contracts authorized by
14 the authority and the department pursuant to Section 5849.35 and
15 any bonds authorized to be issued by the authority pursuant to
16 Section 15463 of the Government Code and any contracts related
17 to those bonds.

18 SEC. 11. Section 5849.11 of the Welfare and Institutions Code
19 is amended to read:

20 5849.11. (a) The counties shall annually report to the
21 department on activities funded under this part, including
22 information on the funded supportive housing development.
23 Reported information shall include location of projects, number
24 of units assisted, occupancy restrictions, number of individuals
25 and households served, related income levels, and homeless,
26 veteran, and mental health status

27 (b) The department shall submit a report on the program to the
28 Legislature by December 31 of each year, commencing with the
29 year after the first full year in which the program is in effect. The
30 report shall contain the following:

31 (1) The processes established for distributing funds.

32 (2) The distribution of funds among counties.

33 (3) Any recommendations as to modifications to the program
34 for the purpose of improving efficiency or furthering the goals of
35 the program.

36 (c) The report required to be submitted by subdivision (b) shall
37 be submitted in compliance with Section 9795 of the Government
38 Code.

39 (d) The department shall submit a report to the authority by
40 December 31 of each year, commencing with the year after the

1 first full year in which the program is in effect, that contains the
2 information described in subdivision (a) and paragraphs (1) and
3 (2) of subdivision (b) for all counties participating in the program
4 and the services that have been provided pursuant to any service
5 contracts entered into pursuant to Section 5849.35.

6 SEC. 12. Section 5849.13 of the Welfare and Institutions Code
7 is repealed.

8 SEC. 13. Section 5849.13 is added to the Welfare and
9 Institutions Code, to read:

10 5849.13. An action to determine the validity of any contract
11 or loan authorized pursuant to Section 5849.35 or of any bond
12 authorized to be issued pursuant to Section 15463 of the
13 Government Code, and any contracts related to those bonds, may
14 be brought in accordance with Section 17700 of the Government
15 Code.

16 SEC. 14. Section 5849.14 of the Welfare and Institutions Code
17 is amended to read:

18 5849.14. The Department of Finance may authorize one or
19 more loans from the General Fund to the No Place Like Home
20 Fund for cashflow purposes in an aggregate amount not to exceed
21 two million dollars (\$2,000,000) subject to the following
22 conditions:

23 (a) The loans are for either of the following purposes:

24 (1) To allow the department to begin program implementation
25 activities, including, but not limited to, drafting program guidelines
26 and regulations.

27 (2) To allow the department, the authority, and the Treasurer
28 to implement Section 5849.35 of this Code and Section 15463 of
29 the Government Code, including, but not limited to, payment for
30 financial advisory and legal services to prepare for, and in
31 connection with, any validation action pursuant to Section 5849.13
32 or any other court action regarding this part or Section 15463 of
33 the Government Code.

34 (b) The loans are short term, and shall be repaid within 30 days
35 after the deposit of bond proceeds into the fund pursuant to
36 paragraph (1) of subdivision (b) of Section 5849.4.

37 (c) Interest charges may be waived pursuant to subdivision (e)
38 of Section 16314 of the Government Code.

39 SEC. 15. Section 5890 of the Welfare and Institutions Code is
40 amended to read:

1 5890. (a) The Mental Health Services Fund is hereby created
2 in the State Treasury. The fund shall be administered by the state.
3 Notwithstanding Section 13340 of the Government Code, all
4 moneys in the fund are, except as provided in subdivision (d) of
5 Section 5892, continuously appropriated, without regard to fiscal
6 years, for the purpose of funding the following programs and other
7 related activities as designated by other provisions of this division:
8 (1) Part 3 (commencing with Section 5800), the Adult and Older
9 Adult System of Care Act.
10 (2) Part 3.2 (commencing with Section 5830), Innovative
11 Programs.
12 (3) Part 3.6 (commencing with Section 5840), Prevention and
13 Early Intervention Programs.
14 (4) Part 3.9 (commencing with Section 5849.1), No Place Like
15 Home Program.
16 (5) Part 4 (commencing with Section 5850), the Children’s
17 Mental Health Services Act.
18 (b) Nothing in the establishment of this fund, nor any other
19 provisions of the act establishing it or the programs funded shall
20 be construed to modify the obligation of health care service plans
21 and disability insurance policies to provide coverage for mental
22 health services, including those services required under Section
23 1374.72 of the Health and Safety Code and Section 10144.5 of the
24 Insurance Code, related to mental health parity. Nothing in this
25 act shall be construed to modify the oversight duties of the
26 Department of Managed Health Care or the duties of the
27 Department of Insurance with respect to enforcing these obligations
28 of plans and insurance policies.
29 (c) Nothing in this act shall be construed to modify or reduce
30 the existing authority or responsibility of the State Department of
31 Health Care Services.
32 (d) The State Department of Health Care Services shall seek
33 approval of all applicable federal Medicaid approvals to maximize
34 the availability of federal funds and eligibility of participating
35 children, adults, and seniors for medically necessary care.
36 (e) Share of costs for services pursuant to Part 3 (commencing
37 with Section 5800), and Part 4 (commencing with Section 5850)
38 of this division, shall be determined in accordance with the
39 Uniform Method for Determining Ability to Pay applicable to
40 other publicly funded mental health services, unless this Uniform

1 Method is replaced by another method of determining co-payments,
2 in which case the new method applicable to other mental health
3 services shall be applicable to services pursuant to Part 3
4 (commencing with Section 5800), and Part 4 (commencing with
5 Section 5850) of this division.

6 (f) The Supportive Housing Program Subaccount is hereby
7 created in the Mental Health Services Fund. Notwithstanding
8 Section 13340 of the Government Code, all moneys in the
9 subaccount are continuously appropriated, without regard to fiscal
10 years, to the California Health Facilities Financing Authority to
11 provide funds to meet its financial obligations pursuant to any
12 service contracts entered into pursuant to Section 5849.35.
13 Notwithstanding any other law, including any other provision of
14 this section, starting on the first day of each month, the Controller
15 shall, prior to any transfer, deposit, or expenditure from the fund
16 for ~~only~~ any other purpose, transfer from the Mental Health
17 Services Fund to the Supportive Housing Program Subaccount an
18 amount which has been certified by the California Health Facilities
19 Financing Authority pursuant to paragraph (3) of subdivision (a)
20 of Section 5849.35, but not to exceed an aggregate amount of one
21 hundred forty million (\$140,000,000) per year. If in any month
22 the amounts in the subaccount are insufficient to fully pay the
23 amount certified by the California Health Facilities Financing
24 Authority, the shortfall shall be carried over to the next month.
25 Moneys in the Supportive Housing Subaccount shall not be loaned
26 the General Fund pursuant to Sections 16310 or 16381 of the
27 Government Code.

28 SEC. 16. Section 5891 of the Welfare and Institutions Code is
29 amended to read:

30 5891. (a) The funding established pursuant to this act shall be
31 utilized to expand mental health services. Except as provided in
32 subdivision (j) of Section 5892 due to the state's fiscal crisis, these
33 funds shall not be used to supplant existing state or county funds
34 utilized to provide mental health services. The state shall continue
35 to provide financial support for mental health programs with not
36 less than the same entitlements, amounts of allocations from the
37 General Fund or from the Local Revenue Fund 2011 in the State
38 Treasury, and formula distributions of dedicated funds as provided
39 in the last fiscal year which ended prior to the effective date of
40 this act. The state shall not make any change to the structure of

1 financing mental health services, which increases a county's share
2 of costs or financial risk for mental health services unless the state
3 includes adequate funding to fully compensate for such increased
4 costs or financial risk. These funds shall only be used to pay for
5 the programs authorized in Sections 5890 and 5892. These funds
6 may not be used to pay for any other program. These funds may
7 not be loaned to the state General Fund or any other fund of the
8 state, or a county general fund or any other county fund for any
9 purpose other than those authorized by Section 5890 and 5892.

10 (b) (1) Notwithstanding subdivision (a), and except as provided
11 in paragraph (2), the Controller may use the funds created pursuant
12 to this part for loans to the General Fund as provided in Sections
13 16310 and 16381 of the Government Code. Any such loan shall
14 be repaid from the General Fund with interest computed at 110
15 percent of the Pooled Money Investment Account rate, with interest
16 commencing to accrue on the date the loan is made from the fund.
17 This subdivision does not authorize any transfer that would
18 interfere with the carrying out of the object for which these funds
19 were created.

20 (2) This subdivision does not apply to the Supportive Housing
21 Program Subaccount created by subdivision (f) of Section 5890
22 or any moneys paid by the California Health Facilities Financing
23 Authority to the Department of Housing and Community
24 Development as a service fee pursuant to a service contract
25 authorized by Section 5849.35.

26 (c) Commencing July 1, 2012, on or before the 15th day of each
27 month, pursuant to a methodology provided by the State
28 Department of Health Care Services, the Controller shall distribute
29 to each Local Mental Health Service Fund established by counties
30 pursuant to subdivision (f) of Section 5892, all unexpended and
31 unreserved funds on deposit as of the last day of the prior month
32 in the Mental Health Services Fund, established pursuant to Section
33 5890, for the provision of programs and other related activities set
34 forth in Part 3 (commencing with Section 5800), Part 3.2
35 (commencing with Section 5830), Part 3.6 (commencing with
36 Section 5840), and Part 4 (commencing with Section 5850).

37 (d) Counties shall base their expenditures on the county mental
38 health program's three-year program and expenditure plan or
39 annual update, as required by Section 5847. Nothing in this
40 subdivision shall affect subdivision (a) or (b).

1 SEC. 17. The Legislature finds and declares that this act
2 furthers the intent of the Mental Health Services Act, enacted by
3 Proposition 63 at the November 2, 2004, statewide general election.

4 SEC. 18. This act is a bill providing for appropriations related
5 to the Budget Bill within the meaning of subdivision (e) of Section
6 12 of Article IV of the California Constitution, has been identified
7 as related to the budget in the Budget Bill, and shall take effect
8 immediately.

O