

Assembly Bill No. 1628

Passed the Assembly August 24, 2016

Chief Clerk of the Assembly

Passed the Senate August 17, 2016

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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, 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 $\frac{2}{3}$ 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, no later than the last day of each month and prior to any transfer or expenditure from the fund for any other purpose for the following month, 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 \$140,000,000 per year. The bill would prohibit moneys in the Supportive Housing Program 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 county compliance with applicable program regulations, loan agreements and regulatory agreements and any agreements related to the program that designate the department as a 3rd party beneficiary, 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.

Appropriation: yes.

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

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

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

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

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

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

(b) The authority may issue taxable or tax-exempt revenue bonds in an amount not to exceed two billion dollars (\$2,000,000,000), exclusive of refunding bonds but including any net premium derived from the sale of the bonds, pursuant to Sections 15441 to 15450, inclusive, for the purpose of financing permanent supportive housing pursuant to the No Place Like Home Program and through loans under subdivision (d). The authority may also utilize bond proceeds to fund necessary reserves for principal and interest, capitalized interest, credit enhancement or liquidity costs, costs of issuance, administrative expenses under Section 5849.4 of the Welfare and Institutions Code, and to reimburse loans under Section 5849.14 of the Welfare and Institutions Code.

(c) The authority may provide for the issuance of bonds of the authority for the purpose of redeeming, refunding, or retiring any bonds or any series or issue of bonds then outstanding issued under subdivision (b), including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption, purchase, or maturity of the bonds. Subdivisions (b) and (c) of Section 15446 apply to, and in connection with, bonds issued under this subdivision. Sections 15441 to 15445, inclusive, and Sections 15447 to 15450, inclusive, apply to, and in connection with, bonds issued under this subdivision in the same manner and to the same extent as bonds issued under subdivision (b).

(d) The authority may make secured or unsecured loans to the Department of Housing and Community Development in connection with financing permanent supportive housing pursuant to the No Place Like Home Program or to refund bonds previously issued pursuant to this section, in accordance with an agreement between the authority and the Department of Housing and Community Development. Loan proceeds may also be used to fund reserves for principal and interest, capitalized interest, credit enhancement and liquidity costs, expenses of funding, financing, and refinancing, administrative expenses under Section 5849.4 of the Welfare and Institutions Code, and to reimburse loans under Section 5849.14 of the Welfare and Institutions Code.

(e) Each of the authority and the Department of Housing and Community Development may enter into any agreement for credit enhancement or liquidity, execute any instruments, and do any other acts it deems necessary, convenient, or desirable in connection with revenue bonds issued pursuant to this section or carry out any power expressly granted pursuant to this section.

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

(2) Except as provided in paragraph (1), funding or financing under this section shall not exempt the permanent supportive housing from the requirements of any other law otherwise applicable to the permanent supportive housing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(14) The California Health Facilities Financing Authority is authorized by law to issue bonds and to consult with the Mental Health Services Oversight and Accountability Commission and the State Department of Health Care Services concerning the implementation of a grant or loan program for California counties to support the development of programs that increase access to, and capacity for, crisis mental health services. It is therefore appropriate for the authority to issue bonds and contract for services with the Department of Housing and Community Development to provide grants or loans to California counties for permanent supportive housing for the target population.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) The Chair of the Mental Health Services Oversight and Accountability Commission, or his or her designee.

(7) A chief administrative officer of a small county or a member of a county board of supervisors of a small county, as provided by subdivision (d) of Section 5849.6, to be appointed by the Governor.

(8) A chief administrative officer of a large county or a member of a county board of supervisors of a large county, as provided by subdivision (b) of Section 5849.6, to be appointed by the Governor.

(9) A director of a county behavioral health department, to be appointed by the Governor.

(10) An administrative officer of a city, to be appointed by the Governor.

(11) A representative of an affordable housing organization, to be appointed by the Speaker of the Assembly.

(12) A resident of supportive housing, to be appointed by the Governor.

(13) A representative of a community mental health organization, to be appointed by the Senate Committee on Rules.

(14) A representative of a local or regional continuum of care organization that coordinates homelessness funding, to be appointed by the Governor.

(b) The committee shall do all of the following:

(1) Assist and advise the department in the implementation of the program.

(2) Review and make recommendations on the department's guidelines.

(3) Review the department's progress in distributing moneys pursuant to this part.

(4) Provide advice and guidance more broadly on statewide homelessness issues.

SEC. 5. Section 5849.35 is added to the Welfare and Institutions Code, to read:

5849.35. (a) The authority may do all of the following:

(1) Consult with the commission and the State Department of Health Care Services concerning the implementation of the No Place Like Home Program, including the review of annual reports provided to the authority by the department pursuant to Section 5849.11.

(2) Enter into one or more contracts with the department for the department to provide, and the authority to pay the department for providing, services described in Sections 5849.7, 5849.8, and 5849.9, related to permanent supportive housing for the target population. Prior to entering into any contract pursuant to this paragraph, the executive director of the authority shall transmit to the commission a copy of the contract in substantially final form. The contract shall be deemed approved by the commission unless it acts within 10 days to disapprove the contract.

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

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

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

(2) Enter into one or more loan agreements with the authority as security for the repayment of the revenue bonds issued by the authority pursuant to Section 15463 of the Government Code. The department shall deposit the proceeds of these loans, excluding any refinancing loans to redeem, refund, or retire bonds, into the fund. The department's obligations to make payments under these loan agreements shall be limited obligations payable solely from amounts received pursuant to its service contracts with the authority.

(3) The department may pledge and assign its right to receive all or a portion of the payments under the service contracts entered into pursuant to paragraph (1) directly to the authority or its bond

trustee for the payment of principal, premiums, if any, and interest under any loan agreement authorized by paragraph (2).

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

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

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

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

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

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

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

5849.4. (a) The No Place Like Home Fund is hereby created within the State Treasury and, notwithstanding Section 13340 of the Government Code, continuously appropriated to the department, the authority, and the Treasurer for the purposes of this part. Accounts and subaccounts may be created within the fund as needed. Up to 5 percent of the amount deposited in the

fund may be used for administrative expenses in implementing this part.

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

(1) Any moneys from the receipt of loan proceeds by the department derived from the issuance of bonds by the authority under subdivision (b) of Section 15463 of the Government Code.

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

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

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

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

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

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

(b) Under any service contract with the authority, the department shall administer a competitive program, pursuant to Section 5849.8, and distribution program, pursuant to Section 5849.9, for awarding a total amount not to exceed two billion dollars (\$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. For purposes of this section and Sections 5849.8 and 5849.9, measurement of the dollar limit on amounts to be distributed by the department shall be based on the principal amount of bonds issued by the authority and loaned to the department, exclusive of any refunding bonds but including any net premium derived from the sale of the bonds, for deposit in the fund. There shall be no dollar limit on the distribution of moneys in the fund derived from the sources described in paragraphs (2) and (3) of subdivision (b) of Section 5849.4.

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

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

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

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

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

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

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

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

5849.8. (a) Under any service contract entered into pursuant to Section 5849.35, the department may allocate an amount not to exceed one billion eight hundred million dollars (\$1,800,000,000) from the fund for the purposes of the competitive program described in this subdivision and the alternative process described in subdivision (b). The department shall develop a competitive application process for the purpose of awarding moneys pursuant to this section. In considering applications, the department shall do all of the following:

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

(A) The county commits to provide mental health supportive services and to coordinate the provision of or referral to other services, including, but not limited to, substance use treatment services, to the tenants of the supportive housing development for at least 20 years. Services shall be provided onsite at the supportive housing development or in a location otherwise easily accessible to tenants. The county may use, but is not restricted to using, any of the following available funding sources as allowed by state and federal law:

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

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

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

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

(v) Other county funds.

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

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

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

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

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

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

(D) Project readiness.

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

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

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

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

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

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

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

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

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

(1) The department shall issue its first request for proposal for the competitive program no later than 180 days after the effective date of a final judgment, with no further opportunity for appeals, in any court proceeding affirming the validity of the contracts authorized by the authority and the department pursuant to Section 5849.35 and any bonds authorized to be issued by the authority pursuant to Section 15463 of the Government Code and any contracts related to those bonds.

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

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

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

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

(e) (1) Any loans made by the department pursuant to this section shall be in the form of secured deferred payment loans to pay for the eligible costs of development. All unpaid principal and accumulated interest is due and payable no later than completion of the term of the loan, which shall be established through program guidelines adopted pursuant to Section 5849.5. The loan shall bear simple interest at a rate of 3 percent per annum on the unpaid principal balance. The department shall require annual loan payments in the minimum amount necessary to cover the costs of project monitoring. For the first 15 years of the loan term, the amount of the required loan payments shall not exceed forty-two hundredths of 1 percent per annum.

(2) The department may establish maximum loan-to-value requirements for some or all of the types of projects that are eligible

for funding under this part, which shall be established through program guidelines adopted pursuant to Section 5849.5.

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

(f) (1) The department may designate an amount not to exceed 4 percent of funds allocated for the competitive program, not including funding allocated pursuant to subdivision (b), in order to cure or avert a default on the terms of any loan or other obligation by the recipient of financial assistance, or bidding at any foreclosure sale where the default or foreclosure sale would jeopardize the department's security in the rental housing development assisted pursuant to this part. The funds so designated shall be known as the "default reserve."

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

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

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

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

(B) Governs the terms of occupancy agreements.

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

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

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

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

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

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

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

(h) (1) The department shall monitor county compliance with applicable program regulations, loan agreements and regulatory agreements and any agreements related to the program that designate the department as a third-party beneficiary, and enforce those regulations and agreements to the extent necessary and desirable in order to provide, to the greatest degree possible, the successful provision of permanent supportive housing.

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

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

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

5849.9. (a) Under any service contract entered into under Section 5849.35, in addition to the competitive program established by Section 5849.8, the department may distribute an amount not to exceed two hundred million dollars (\$200,000,000) from the fund on an “over-the-counter” basis to finance the construction, rehabilitation, or preservation, and to capitalize operating reserves, of permanent supportive housing for individuals in the target population with a priority for those with mental health supportive needs who are homeless or at risk of chronic homelessness. Funds to be awarded pursuant to this section shall be available to all counties within the state proportionate to the number of homeless persons residing within each county as calculated in Section 5849.6 or in the amount of five hundred thousand dollars (\$500,000), whichever is greater. A county receiving these funds shall commit to provide mental health supportive services and coordinate the provision of, or referral to, other services, including, but not limited

to, substance abuse treatment services, to the tenants of the supportive housing development for at least 20 years. Services shall be provided onsite at the supportive housing development or at a location otherwise easily accessible to the tenants.

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

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

(d) The department shall make the first allocation of moneys pursuant to this section as soon as reasonably practical and in any event 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 contracts authorized by the authority and the department pursuant to Section 5849.35 and any bonds authorized to be issued by the authority pursuant to Section 15463 of the Government Code and any contracts related to those bonds.

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

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

(b) The department shall submit a report 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. The report shall contain the following:

- (1) The processes established for distributing funds.
- (2) The distribution of funds among counties.

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

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

(d) The department shall submit a report to the 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 the information described in subdivision (a) and paragraphs (1) and (2) of subdivision (b) for all counties participating in the program and the services that have been provided pursuant to any service contracts entered into pursuant to Section 5849.35.

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

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

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

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

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

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

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

(2) To allow the department, the authority, and the Treasurer to implement Section 5849.35 of this Code and Section 15463 of the Government Code, including, but not limited to, payment for financial advisory and legal services to prepare for, and in connection with, any validation action pursuant to Section 5849.13

or any other court action regarding this part or Section 15463 of the Government Code.

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

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

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

5890. (a) The Mental Health Services Fund is hereby created in the State Treasury. The fund shall be administered by the state. Notwithstanding Section 13340 of the Government Code, all moneys in the fund are, except as provided in subdivision (d) of Section 5892, continuously appropriated, without regard to fiscal years, for the purpose of funding the following programs and other related activities as designated by other provisions of this division:

(1) Part 3 (commencing with Section 5800), the Adult and Older Adult System of Care Act.

(2) Part 3.2 (commencing with Section 5830), Innovative Programs.

(3) Part 3.6 (commencing with Section 5840), Prevention and Early Intervention Programs.

(4) Part 3.9 (commencing with Section 5849.1), No Place Like Home Program.

(5) Part 4 (commencing with Section 5850), the Children's Mental Health Services Act.

(b) Nothing in the establishment of this fund, nor any other provisions of the act establishing it or the programs funded shall be construed to modify the obligation of health care service plans and disability insurance policies to provide coverage for mental health services, including those services required under Section 1374.72 of the Health and Safety Code and Section 10144.5 of the Insurance Code, related to mental health parity. Nothing in this act shall be construed to modify the oversight duties of the Department of Managed Health Care or the duties of the Department of Insurance with respect to enforcing these obligations of plans and insurance policies.

(c) Nothing in this act shall be construed to modify or reduce the existing authority or responsibility of the State Department of Health Care Services.

(d) The State Department of Health Care Services shall seek approval of all applicable federal Medicaid approvals to maximize the availability of federal funds and eligibility of participating children, adults, and seniors for medically necessary care.

(e) Share of costs for services pursuant to Part 3 (commencing with Section 5800) and Part 4 (commencing with Section 5850) of this division, shall be determined in accordance with the Uniform Method of Determining Ability to Pay applicable to other publicly funded mental health services, unless this Uniform Method is replaced by another method of determining co-payments, in which case the new method applicable to other mental health services shall be applicable to services pursuant to Part 3 (commencing with Section 5800) and Part 4 (commencing with Section 5850) of this division.

(f) The Supportive Housing Program Subaccount is hereby created in the Mental Health Services Fund. Notwithstanding Section 13340 of the Government Code, all moneys in the subaccount are reserved and continuously appropriated, without regard to fiscal years, to the California Health Facilities Financing Authority to provide funds to meet its financial obligations pursuant to any service contracts entered into pursuant to Section 5849.35. Notwithstanding any other law, including any other provision of this section, no later than the last day of each month, the Controller shall, prior to any transfer or expenditure from the fund for any other purpose for the following month, transfer from the Mental Health Services Fund to the Supportive Housing Program Subaccount an amount which has been certified by the California Health Facilities Financing Authority pursuant to paragraph (3) of subdivision (a) of Section 5849.35, but not to exceed an aggregate amount of one hundred forty million (\$140,000,000) per year. If in any month the amounts in the Mental Health Services Fund are insufficient to fully transfer to the subaccount or the amounts in the subaccount are insufficient to fully pay the amount certified by the California Health Facilities Financing Authority, the shortfall shall be carried over to the next month. Moneys in the Supportive Housing Program Subaccount shall not be loaned to the General Fund pursuant to Section 16310 or 16381 of the Government Code.

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

5891. (a) The funding established pursuant to this act shall be utilized to expand mental health services. Except as provided in subdivision (j) of Section 5892 due to the state's fiscal crisis, these funds shall not be used to supplant existing state or county funds utilized to provide mental health services. The state shall continue to provide financial support for mental health programs with not less than the same entitlements, amounts of allocations from the General Fund or from the Local Revenue Fund 2011 in the State Treasury, and formula distributions of dedicated funds as provided in the last fiscal year which ended prior to the effective date of this act. The state shall not make any change to the structure of financing mental health services, which increases a county's share of costs or financial risk for mental health services unless the state includes adequate funding to fully compensate for such increased costs or financial risk. These funds shall only be used to pay for the programs authorized in Sections 5890 and 5892. These funds may not be used to pay for any other program. These funds may not be loaned to the General Fund or any other fund of the state, or a county general fund or any other county fund for any purpose other than those authorized by Sections 5890 and 5892.

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

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

(c) Commencing July 1, 2012, on or before the 15th day of each month, pursuant to a methodology provided by the State Department of Health Care Services, the Controller shall distribute to each Local Mental Health Service Fund established by counties

pursuant to subdivision (f) of Section 5892, all unexpended and unreserved funds on deposit as of the last day of the prior month in the Mental Health Services Fund, established pursuant to Section 5890, for the provision of programs and other related activities set forth in Part 3 (commencing with Section 5800), Part 3.2 (commencing with Section 5830), Part 3.6 (commencing with Section 5840), Part 3.9 (commencing with Section 5849.1), and Part 4 (commencing with Section 5850).

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

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

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

Approved _____, 2016

Governor