



# Revision to ASR and/or Attachments

**Date:** 1/19/2024  
**To:** Clerk of the Board of Supervisors  
**CC:** County Executive Office  
**From:** Frank Kim, County Executive Officer   
**Re:** ASR Control #: 23-000442, Meeting Date 1/23/2024, Item No. # 24  
**Subject:** Legislative Issues

CLERK OF THE BOARD  
COUNTY OF ORANGE  
BOARD OF SUPERVISORS

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Explanation:

Revised Recommended Action(s)

Make modifications to the:

Subject     Background Information     Summary     Financial Impact

Revised Attachments (attach revised attachment(s) and redlined copy(s))

Add Proposition 1 Analysis to the Legislative Bulletin



## CEO-Legislative Affairs: Proposition 1 Analysis

On October 12, 2023, the Governor signed into law the Behavioral Health Infrastructure Bond Act of 2024 and the Behavioral Health Services Act. These acts will be submitted together to the voters as a single measure on the March 5, 2024, statewide primary election ballot and designated as Proposition 1.

Proposition 1 consists of two main components that propose statutory changes to reform the state’s behavioral health system and create more supportive housing and behavioral health treatment resources.

### **Component #1: Reform the State’s Behavioral Health System**

Proposition 1 amends the Mental Health Services Act (MHSA) which was approved by the voters as Proposition 63 in 2004 by renaming the MHSA to the Behavioral Health Services Act (BHSA) and making other statutory changes to update the state’s behavioral health system.

Among its provisions, Proposition 1 reduces the current MHSA funding categories from 5 allowable uses down to 3 BHSA funding categories.

## **Changing Categories of Use**

### **MHSA – Current Model**

- 1. Community Services and Supports (CSS)**
- 2. Prevention and Early Intervention (PEI)**
- 3. Innovation (INN)**
- 4. Workforce Education and Training (WET)**
- 5. Capital Facilities and Technological Needs (CFTN)**



### **BHSA – Proposition 1**

- 1. Housing Interventions:**  
Housing subsidies. A maximum of 25% of this category can be used toward development of housing.
- 2. Full-Service Partnerships:**  
Intensive outpatient treatment programs that offer 24/7 access and supports.
- 3. Other Behavioral Health Supports:**  
The majority of funds must be directed toward early intervention programs. A minimum of 51% must be for children and youth aged 25 and younger.

Proposition 1 would remove all 5 allowable MHSA categories, which are described below in greater detail.

1. Through *Community Services and Supports (CSS)*, the County supports programs designed to expand the continuum of services for individuals living with serious mental illness whose treatment needs extend beyond what can be reimbursed through Medi-Cal. A majority of the CSS funding is directed toward intensive outpatient programs, Full-Service Partnerships (FSP), that offer 24/7 access and supports. CSS receives approximately 76% of total funding under the current model.
2. *Prevention and Early Intervention (PEI)* programs are designed to address risk factors that can contribute to the development of a behavioral health condition, increase protective factors and/or intervene early in the onset of a mental health condition to deter the onset of disability. PEI receives approximately 19% of total funding under the current model.
3. *Innovation (INN)* refers to time-limited projects designed to research and test novel or unique methods to improving public behavioral health programs, strategies or approaches to care. INN receives approximately 5% of total funding under the current model.
4. The *Workforce Education and Training (WET)* category comprises programs designed to support the recruitment, retention and development of a highly trained public behavioral health workforce. WET investments are based on local needs. WET and CFTN components are sustained through a transfer of CSS funds to the components.
5. *Capital Facilities and Technological Needs (CFTN)* funding supports the development of both the space to deliver MHSA funded programs and services and the technological systems to manage Behavioral Health programmatic and financial data. CFTN investments are based on local needs. WET and CFTN funds are sustained through a transfer of up to 20% of CSS funds to the components.

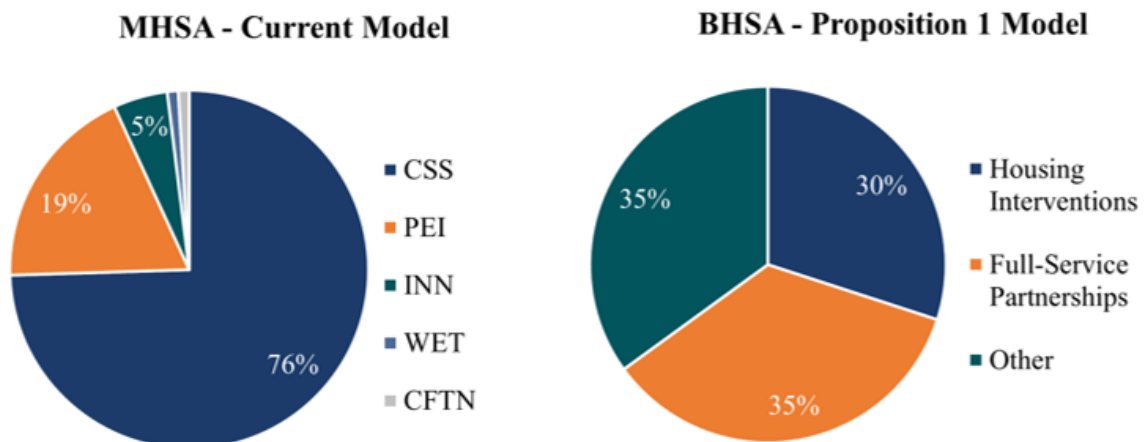
In place of the MHSA categories, Proposition 1 creates 3 BHSA funding categories. Each BHSA use contains specific set-asides and funding restrictions.

1. *Housing Interventions*: Proposition 1 distributes 30% of total BHSA funding towards this category.
  - a. A 30% set-aside for housing is estimated at about \$1 billion annually to serve individuals living with serious mental illness (SMI) and/or substance use disorder (SUD) and experiencing chronic homelessness or at risk of homelessness.
  - b. 50% of the housing component (15% of total BHSA funds) is required to be used for interventions for persons living with SMI/SUD who are chronically homeless, with a focus on those in encampments.
  - c. No more than 25% may be used for capital development projects.
  - d. County programs for housing interventions may include rental subsidies, operating subsidies, shared housing, family housing for eligible children and youth, nonfederal share for transitional rent, other housing supports, as defined by DHCS, including, but not limited to, the community supports policy guide, and capital development projects, including

affordable housing, project-based housing assistance, including master leasing of project-based housing.

- e. Specifies funds for housing interventions shall not be used for mental health and SUD treatment services.
  - f. Specifies housing interventions shall not be limited to those enrolled in Medi-Cal or FSP programs.
  - g. Housing interventions are required to comply with the core components of Housing First.
2. *Full-Service Partnerships*: Proposition 1 distributes 35% of total BHSA funding towards this category.
- a. Each county is required to establish and administer a Full-Service Partnership program that includes mental health services, supportive services, and substance use disorder treatment services; outpatient behavioral health services; ongoing engagement services; housing interventions; Assertive Community Treatment and Forensic Assertive Community Treatment fidelity, Individual Placement and Support model of Supported Employment, high fidelity wraparound, or other evidence-based services and treatment models.
3. *Other Behavioral Health Supports*: Proposition 1 distributes 35% of total BHSA funding towards this category.
- a. This category includes services for the children’s and adult/older adults’ systems of care, early intervention programs, outreach and engagement, workforce education and training, capital facilities and technological needs, and innovative behavioral health pilots and projects.
  - b. At least 51% of funding must be for early intervention programs:
    - At least 51% of early intervention funding must be used to serve individuals who are 25 years of age and younger.

Proposition 1 also specifies the programs established for all components are to include services to address the needs of eligible children and youth, 0 to 5 years of age, inclusive, transition age youth, and foster youth.



Current MHSA funding comes from an annual statewide tax on income above \$1 million. The tax typically raises between \$2 billion and \$3.5 billion each year. Currently, the state collects this tax, takes 5% of it for state uses, and distributes the remaining 95% for counties and No Place Like Home bonds.

Proposition 1 will allow the state to take 10% of the tax, doubling the amount of funding available for state purposes. After accounting for funds reserved for No Place Like Home bonds (~4%), the total allocation for counties is estimated to decrease from 91% under MHSA to 85.5% of total BHSAs revenues.

- Proposition 1 makes additional changes to the state portion of the tax:
  - Directs 4% of state administration funds for prevention campaigns to be administered by the California Department of Public Health.
  - 3% is directed toward statewide workforce initiatives that intend to develop incentives and other supports to increase the public behavioral health workforce.
  - 3% supports state administration of various state entities such as the Mental Health Services Oversight and Accountability Commission and the Department of Health Care Services.

### **Changes That Will Come with No Additional Funding:**

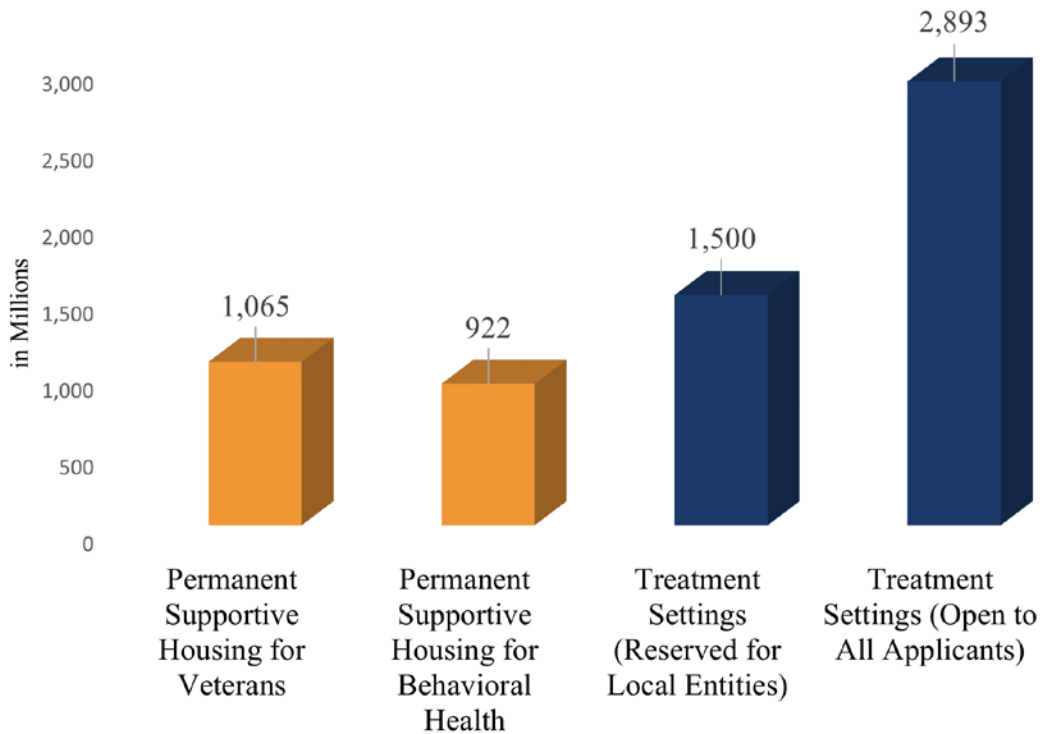
Several of the provisions of Proposition 1 apply additional changes to counties and do not provide additional funding for these purposes. Of note, Proposition 1:

- Expands eligible use of funds from individuals living with serious mental illness to additionally cover substance use disorder treatment services with priority for individuals experiencing homelessness, who are justice involved and those who are at risk of conservatorship/conserved.
- Establishes additional administrative requirements, including but not limited to:
  - Expanded community program planning to include comprehensive analytics;
  - Development of a stakeholder-informed Integrated Plan that includes all behavioral health funding and programs;
  - Updated mechanisms for billing, contracting and financial management;
  - Implementation of state-directed Evidence Based Programs and Practices;
  - Establishment of a new County Behavioral Health Outcomes, Accountability, and Transparency Report that includes all behavioral health funding, in addition to reporting required in the Integrated Plan.

**Component #2: Create More Supportive Housing and Behavioral Health Treatment Resources**

Proposition 1 authorizes \$6.38 billion in general obligation bonds and approves funding requirements to finance the conversion, rehabilitation and construction of supportive housing and behavioral health housing and treatment settings.

Proposition 1 - \$6.38B Bond Breakdown



**Housing:**

Proposition 1 would allocate \$2 billion to programs administered by the Department of Housing and Community Development and the Department of Veterans Affairs; about \$1 billion for veterans and \$1 billion for people experiencing homelessness with behavioral health conditions.

**Places for Mental Health Care and Drug or Alcohol Treatment:**

Proposition 1 would provide nearly \$4.4 billion to the state program that builds more places for mental health care and drug or alcohol treatment. Of the total, \$1.5 billion is to be awarded through grants exclusively to counties, cities and tribal entities; local jurisdictions are not precluded from applying for additional funds.

## **Funding Methodology:**

Although the specific sums of money for each purpose are spelled out in statute, the measure does not specify the manner in which funding will be distributed. Rather, the measure places responsibility for these decisions with the state agencies administering the funds. A representative sample of the language reads as follows:

***Welfare and Institutions Code 5966. (a) (1) The Department of Housing and Community Development, in coordination with the Department of Veterans Affairs, shall determine the methodology and distribution of the [\$1.065 billion for veterans].***

***(b) The Department of Housing and Community Development shall determine the methodology and distribution of the [\$922 million for people experiencing homelessness with behavioral health conditions].***

Subsequent sections require only that the funds be disbursed in accordance with the Multifamily Housing Program or the Behavioral Health Continuum Infrastructure Program (BHCIP). These programs leave many critical implementing decisions up to the state departments. According to the statute, state departments will be required to issue guidance regarding implementation by July 1, 2025.

Previous state bonds and programs have used a wide variety of approaches for distributing funding, including noncompetitive allocations, competitive application processes, geographic distributions, population-based funding and need-based disbursement, among others. As the state methodology has yet to be determined, only general impacts can be predicted. The proposed bond will increase the available funding for development of affordable and supportive housing which may increase the amount of leveraged funding available for County-funded projects.

As stated previously, Proposition 1 would change the formula funding categories to require that 30% of total BHSA dollars be prescribed for *Housing Intervention*, of which 25% can go towards capital development. This change will diminish local discretion and decrease local MHSA discretionary dollars for supportive housing development. The MHSA 3-year spending plan for FY 2023-24 through 2025-26 currently allocates \$40 million for supportive housing development. The proposed change in formula would cap the BHSA funding available to an estimated \$27 million over 3 years, which is a reduction compared to the County's current allocation of MHSA funding for housing development. As described in the 3-year spending plan, a reduction of funding would affect the County's present plans to continue to fund existing programs, provide enhancements to the public behavioral health system that promote wellness, equity, recovery, and resilience, and expand efforts in response to community needs and statutory change.

### **“By Right” Projects:**

The enabling legislation for Proposition 1 provides that housing projects funded by the Behavioral Health Infrastructure Bond Act of 2024, and projects that are disbursed in accordance with BHCIP (among other projects), are uses “by right” and subject to the streamlined, ministerial review process. Uses by right mean the local government’s review of the project does not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a project subject to the approval process in the California Environmental Quality Act.

Certain types of projects are named uses by right in the enabling legislation and those include, but are not limited to, children’s residential crisis programs, peer respite, children’s and adult substance use disorder residential programs, recovery housing, short-term residential therapeutic programs, and social rehabilitation programs, if they are located in a zone where residential, office, retail or parking are a principally permitted use. In addition, capital projects funded in whole or in part with BHSA funds shall be a use by right and subject to a streamlined, ministerial review process if the project meets specified criteria. These changes are likely to diminish local input and control over the projects funded by the bond or BHSA funds.

### **Further Reading:**

For further information on Proposition 1, please refer to the Legislative Analyst’s Office [analysis](#) or the text of the [Behavioral Health Infrastructure Bond Act of 2024](#) and the [Behavioral Health Services Act](#).