

- (6) 5% percent of the total funding for each county mental health program for Parts 3, 3.6 and 4 shall be utilized for Innovative Programs pursuant to an approved plan required by Section 5830 and such funds may be distributed by the department only after such programs have been approved by the Oversight and Accountability Commission established pursuant to Section 5845.
- (b) In any year after 2007-08, programs for services pursuant to Parts 3 and 4 may include funds for technological needs and capital facilities, human resource needs, and a prudent reserve to ensure services do not have to be significantly reduced in years in which revenues are below the average of previous years. The total allocation for purposes authorized by this subdivision shall not exceed 20% of the average amount of funds allocated to that county for the previous five years pursuant to this Section.
- (c) The allocations pursuant to subdivisions (a) and (b) shall include funding for annual planning costs pursuant to Section 5848. The total of such costs shall not exceed 5% of the total of annual revenues received for the Fund. The planning costs shall include funds for county mental health programs to pay for the costs of consumers, family members and other stakeholders to participate in the planning process and for the planning and implementation required for private provider contracts to be significantly expanded to provide additional services pursuant to Parts 3 and 4.
- (d) Prior to making the allocations pursuant to subdivisions (a), (b) and (c), the department shall also provide funds for the costs for itself, the Mental Health Planning Council and the Oversight and Accountability Commission to implement all duties pursuant to the programs set forth in this section. Such costs shall not exceed 5% of the total of annual revenues received for the Fund. The administrative costs shall include funds to assist consumers and family members to ensure the appropriate state and county agencies give full consideration to concerns about quality, structure of service delivery or access to services. The amounts allocated for administration shall include amounts sufficient to ensure adequate research and evaluation regarding the effectiveness of services being provided and achievement of the outcome measures set forth in Parts 3, 3.6 and 4.
- (e) In 2004-05 funds shall be allocated as follows:
- (1) 45% for Education and Training pursuant to Part 3.1.
  - (2) 45% for Capital Facilities and Technology Needs in the manner specified by paragraph (2) of subdivision (a).
  - (3) 5% for Local Planning in the manner specified in Subdivision (c) and
  - (4) 5% for State Implementation in the manner specified in subdivision (d)
- (f) Each county shall place all funds received from the state Mental Health Services Fund in a local Mental Health Services Fund. The Local Mental Health Services Fund balance shall be invested consistent with other county funds and the interest earned on such investments shall be transferred into the Fund. The earnings on investment of these funds shall be available for distribution from the Fund in future years.
- (g) All expenditures for county mental health programs shall be consistent with a currently approved plan or update pursuant to Section 5847.
- (h) Other than funds placed in a reserve in accordance with an approved plan, any funds allocated to a county which have not been spent for their authorized purpose within three years shall revert to the state to be deposited into the Fund and available for other counties in future years, provided however, that funds for

- capital facilities, technological needs or education and training may be retained for up to ten years before reverting to the Fund.
- (i) If there are still additional revenues available in the fund after the Oversight and Accountability Commission has determined there are prudent reserves and no unmet needs for any of the programs funded pursuant to this Section, including all purposes of the Prevention and Early Intervention Program, the Commission shall develop a plan for expenditures of such revenues to further the purposes of this Act and the Legislature may appropriate such funds for any purpose consistent with the Commission's adopted plan which furthers the purposes of this act.
5893. (a) In any year in which the funds available exceed the amount allocated to counties, such funds shall be carried forward to the next fiscal year to be available for distribution to counties in accordance with Section 5892 in that fiscal year.
- (b) All funds deposited into the Mental Health Services Fund shall be invested in the same manner in which other state funds are invested. The Fund shall be increased by its share of the amount earned on investments.
5894. In the event that Parts 3 or 4 are restructured by legislation signed into law before the adoption of this measure, the funding provided by this measure shall be distributed in accordance with such legislation; provided, however that nothing herein shall be construed to reduce the categories of persons entitled to receive services.
5895. In the event any provisions of Part 3 or Part 4 of this Division are repealed or modified so the purposes of this Act cannot be accomplished, the funds in the Mental Health Services Fund shall be administered in accordance with those sections as they read on January 1, 2004.
5897. (a) Notwithstanding any other provision of state law, the Department of Mental Health shall implement the mental health services provided by Parts 3, 3.6 and 4 of this Division through contracts with county mental health programs or counties acting jointly. A contract may be exclusive and may be awarded on a geographic basis. As used herein a county mental health program includes a city receiving funds pursuant to Section 5701.5
- (b) Two or more counties acting jointly may agree to deliver or subcontract for the delivery of such mental health services. The agreement may encompass all or any part of the mental health services provided pursuant to these parts. Any agreement between counties shall delineate each county's responsibilities and fiscal liability.
- (c) The department shall implement the provisions of Parts 3, 3.2, 3.6 and 4 of this Division through the annual county mental health services performance contract, as specified in Part 2, Chapter 2, Section 5650 et seq.
- (d) When a county mental health program is not in compliance with its performance contract, the department may request a plan of correction with a specific time-line to achieve improvements.
- (e) Contracts awarded by the Department of Mental Health, the California Mental Health Planning Council, and the Mental Health Services Oversight and Accountability Commission pursuant to Parts 3, 3.1, 3.2, 3.6, 3.7, 4, and 4.5 may be awarded in the same manner in which contracts are awarded pursuant to Section 5814 and the provisions of subdivisions (g) and (h) of Section 5814 shall apply to such contracts.
- (f) For purposes of Section 5775, the allocation of funds pursuant to Section 5892 which are used to provide services to Medi-Cal beneficiaries shall be included in calculating anticipated county matching funds and the transfer to the department

of the anticipated county matching funds needed for community mental health programs.

5898. The department shall develop regulations, as necessary, for the department or designated local agencies to implement this Act. In 2005, the director may adopt all regulations pursuant to this Act as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 2 of Title 2. For the purpose of the Administrative Procedure Act, the adoption of regulations, in 2005, shall be deemed an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. These regulations shall not be subject to the review and approval of the Office of Administrative Law and shall not be subject to automatic repeal until final regulations take effect. Emergency regulations adopted in accordance with this provision shall not remain in effect for more than a year. The final regulations shall become effective upon filing with the Secretary of State. Regulations adopted pursuant to this section shall be developed with the maximum feasible opportunity for public participation and comments.

### **SECTION 16**

The provisions of this Act shall become effective January 1 of the year following passage of the Act, and its provisions shall be applied prospectively.

The provisions of this Act are written with the expectation that it will be enacted in November of 2004. In the event that it is approved by the voters at an election other than one which occurs during the 2004-05 fiscal year, the provisions of this act which refer to fiscal year 2005-06 shall be deemed to refer to the first fiscal year which begins after the effective date of this Act and the provisions of this Act which refer to other fiscal years shall refer to the year that is the same number of years after the first fiscal year as that year is in relationship to 2005-06.

### **SECTION 17**

Notwithstanding any other provision of law to the contrary, the department shall begin implementing the provisions of this Act immediately upon its effective date and shall have the authority to immediately make any necessary expenditures and to hire staff for that purpose.

### **SECTION 18**

This Act shall be broadly construed to accomplish its purposes. All of the provisions of this Act may be amended by a 2/3 vote of the Legislature so long as such amendments are consistent with and further the intent of this Act. The Legislature may by majority vote add provisions to clarify procedures and terms including the procedures for the collection of the tax surcharge imposed by Section 16.

### **SECTION 19**

If any provision of this Act is held to be unconstitutional or invalid for any reason, such unconstitutionality or invalidity shall not affect the validity of any other provision.