

**Introduced by Senator Eggman**February 17, 2022

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An act to add Section 5610.5 to the Welfare and Institutions Code, relating to mental health.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1238, as introduced, Eggman. Behavioral health services: existing and projected needs.

Existing law, the Bronzan-McCorquodale Act, contains provisions governing the operation and financing of community mental health services for the mentally disordered in every county through locally administered and locally controlled community mental health programs. Existing law further provides that the mission of California's mental health system is to enable persons experiencing severe and disabling mental illnesses and children with serious emotional disturbances to access services and programs that assist them, in a manner tailored to each individual, to better control their illness, to achieve their personal goals, and to develop skills and supports leading to their living the most constructive and satisfying lives possible in the least restrictive available settings.

This bill would require the State Department of Health Care Services, in consultation with each council of governments, to determine the existing and projected need for behavioral health services for each region in a specified manner and would require, as part of that process, councils of governments to provide the department-specified data. The bill would authorize a council of governments, within 30 days following notice of the determination from the department, to file with the department an objection to the department's determination of the region's existing and projected behavioral health need. The bill would

require the department to make a final written determination of the region’s existing and projected behavioral needs within 45 days of receiving an object. By adding to the duties of councils of governments, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 5610.5 is added to the Welfare and  
2 Institutions Code, to read:

3 5610.5. (a) The State Department of Health Care Services, in  
4 consultation with each council of governments, where applicable,  
5 shall determine the existing and projected need for behavioral  
6 health services, for each region, in the following manner:

7 (1) The department’s determination shall be based upon  
8 population projections produced by the Department of Finance,  
9 incidence of behavioral health issues within the region, including  
10 serious emotional disturbance among children and serious mental  
11 illness among adults, frequency of referrals for assisted outpatient  
12 treatment, frequency of psychiatric holds under Article 1  
13 (commencing with Section 5150) of Chapter 1 of Part 1, frequency  
14 and duration of conservatorships under Chapter 3 (commencing  
15 with Section 5350) of Part 1, and an inventory of the continuum  
16 of behavioral health services provided by the county behavioral  
17 health department.

18 (2) Prior to developing the existing and projected behavioral  
19 health need for a region, the department shall meet and consult  
20 with the council of governments regarding the assumptions and  
21 methodology to be used by the department to determine the  
22 region’s behavioral health needs. The council of governments shall  
23 provide behavioral health service access and utilization data for  
24 the region, including, but not limited to, the total number of beds

1 or slots, total utilization, and unmet need, in all of the following  
2 service categories:

3 (A) Prevention and wellness services for mental health and  
4 substance use issues, including, but not limited to, services,  
5 activities, and assessments that help identify individuals at risk of  
6 a mental health or substance use disorder; support for communities,  
7 families, and individuals in coping with stress and trauma;  
8 dissemination of information on ways to promote resiliency; and  
9 discouragement of risky behaviors.

10 (B) Outpatient services, including a variety of traditional clinical  
11 outpatient services such as individual and group therapy and  
12 ambulatory detoxification services.

13 (C) Peer and recovery services delivered in the community that  
14 can be provided by individuals with lived experience, including  
15 young adults and family members.

16 (D) Community supports, including flexible services designed  
17 to enable individuals to remain in their homes and participate in  
18 their communities, such as supportive housing, case management,  
19 supported employment, and supported education.

20 (E) Intensive outpatient treatment services, including services  
21 such as full-service partnerships, assertive community treatment  
22 (ACT), and substance use intensive outpatient services that are  
23 delivered using a multidisciplinary approach to support individuals  
24 living with higher acuity behavioral health needs.

25 (F) Residential treatment provided on a short-term basis to divert  
26 individuals from, or as a step down from, intensive services.

27 (G) Crisis services, including, but not limited to, a range of  
28 services and supports such as crisis call centers, mobile crisis  
29 services, and crisis residential services that assess, stabilize, and  
30 treat individuals experiencing acute distress who may require  
31 hospitalization.

32 (H) Intensive treatment services that are provided in structured,  
33 facility-based settings to individuals who require 24-hours-a-day,  
34 seven-days-a-week care, including inpatient psychiatric treatment  
35 and clinically managed inpatient services.

36 (I) School-based behavioral health services.

37 (3) The department may accept or reject the information  
38 provided by the council of governments or modify its own  
39 assumptions or methodology based on the information provided.  
40 After consultation with the council of governments, the department

1 shall make determinations, in writing, on the assumptions for each  
2 of the factors listed in paragraph (2) and the methodology it will  
3 use to determine the region’s behavioral health needs and shall  
4 provide these determinations to the council of governments.

5 (4) (A) After consultation with the council of governments, the  
6 department shall make a determination of the region’s existing  
7 and projected behavioral health need based upon the assumptions  
8 and methodology determined pursuant to paragraph (3). Within  
9 30 days following notice of the determination from the department,  
10 the council of governments may file with the department an  
11 objection to the department’s determination of the region’s existing  
12 and projected behavioral health need.

13 (B) An objection shall be based on, and shall provide  
14 substantiation of, either of the following:

15 (i) The department failed to base its determination on the data  
16 for the region. If an objection is filed under this clause, the council  
17 of governments shall identify the data it believes should instead  
18 be used for the determination and explain the basis for its rationale.

19 (ii) The regional behavioral health need determined by the  
20 department is not a reasonable application of the methodology and  
21 assumptions determined pursuant to paragraph (3). If an object is  
22 filed under this clause, it shall include a proposed alternative  
23 determination of its regional behavioral health need based upon  
24 the determinations made in paragraph (3), including analysis of  
25 why the proposed alternative would be a more reasonable  
26 application of the methodology and assumptions determined  
27 pursuant to paragraph (3).

28 (C) If a council of governments files an objection pursuant to  
29 this paragraph and includes with the objection a proposed  
30 alternative determination of its regional behavioral health need, it  
31 shall also include documentation of its basis for the alternative  
32 determination. Within 45 days of receiving an objection filed  
33 pursuant to this section, the department shall consider the objection  
34 and make a final written determination of the region’s existing and  
35 projected behavioral health need that includes an explanation of  
36 the information upon which the determination was made.

37 (b) For the purposes of this section, “council on governments”  
38 has the same meaning as in Section 65582 of the Government  
39 Code.

1     SEC. 2. If the Commission on State Mandates determines that  
2 this act contains costs mandated by the state, reimbursement to  
3 local agencies and school districts for those costs shall be made  
4 pursuant to Part 7 (commencing with Section 17500) of Division  
5 4 of Title 2 of the Government Code.

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