

RESOLUTION 24-04

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MISSION VIEJO, CALIFORNIA, OPPOSITION TO LANGUAGE INCLUDED IN THE BEHAVIORAL HEALTH SERVICES PROGRAM AND BOND MEASURE (Proposition 1)

WHEREAS, the Behavioral Health Services Program and Bond Measure, known as Proposition 1, are the product of two laws passed during the 2023 legislative session; Senate Bill 326 (Eggman) and Assembly Bill 531 (Irwin). Both bills contained provisions requiring the bills to appear jointly on the March 5, 2024 ballot as Proposition 1.

WHEREAS, Assembly Bill 531, by Assembly Member Jacqui Irwin was signed by Governor Newsom on October 12, 2023, and creates the Behavioral Health Infrastructure Bond Act of 2024 to, subject to voter approval, authorize \$6.380 billion in general obligation (GO) bonds to finance permanent supportive housing for veterans and others, as well as, unlocked and locked behavioral health treatment and residential settings for individuals experiencing homelessness or at risk of homelessness with severe behavioral health challenges, and allows for by right streamlined, ministerial review for capital projects funded by the bond.

WHEREAS, Senate Bill 326 by Senator Susan Eggman revises and recasts the Mental Health Services Act (MHSA), subject to voter approval, as the Behavioral Health Services Act (BHSA), and adds amendments to the MHSA.

WHEREAS, AB 531 (Irwin) calls for a by-right approval process for adult substance use disorder residential programs and recovery housing.

WHEREAS, it is long overdue that we modernize our approach to serving our fellow Californians who are most in need of mental health care, the City has serious concerns with the language that creates a by-right approval process for adult substance use disorder residential programs and recovery.

WHEREAS, the residents that are receiving treatment from these recovery houses are members of our most vulnerable population;

WHEREAS, it is critical that the individuals receiving care in these facilities are set up for success with close management and regulations to ensure that these facilities are operating in the manner intended;

WHEREAS, if these facilities are not properly managed or regulated it can lead to severe issues for both the residents and for the surrounding community;

WHEREAS, the City of Mission Viejo is concerned that a by-right approach will allow these facilities to open anywhere in our community without appropriate oversight and will create serious challenges for the residents of the facilities as well as their neighbors.

NOW, THEREFORE, the City Council of the City of Mission Viejo resolves as follows:

Section 1: The City Council hereby formally opposes the language included in the Behavioral Health Services Program Bond, known as Proposition 1, that creates a by-right approval process for adult substance use disorder residential programs and recovery housing.

Section 2: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

PASSED. APPROVED AND ADOPTED this 23rd day of January 2023.


Trish Kelley
Mayor

I hereby certify that the foregoing Resolution was duly adopted by the City Council of the City of Mission Viejo at a regularly scheduled meeting thereof, held on the 23rd day of January 2024, by the following vote of the Council:

AYES: Bucknum, Goodell and Kelley
NOES: Vasquez
ABSENT: Ruesch

ATTEST:


Kimberly Schmitt
City Clerk

MEMORANDUM

To: City of Mission Viejo
From: Townsend Public Affairs
Date: January 30, 2024
Subject: Proposition 1: Overview of March 2024 Primary Election Ballot Initiative

OVERVIEW

During the 2023 Legislative Session, the Legislature approved AB 531 (Irwin) and SB 326 (Eggman) which comprised a package of reforms to the State's behavioral health care continuum. Specifically, AB 531 authorized \$6.38 billion in general obligation bonds to finance permanent supportive housing and behavioral health treatment settings for individuals experiencing homelessness and behavioral health challenges. SB 326 (Eggman) complemented the capital project development goals of AB 531 by revising the Mental Health Services Act (MSHA) to include the expansion of services to individuals with diagnosed mental health disorders and substance use disorders, as well as recasting funding priorities to include the development and maintenance of supportive housing solutions.

Both AB 531 and SB 326 will appear on the March 5, 2024 primary ballot as Proposition 1. As directed by Governor Newsom, Proposition 1 will be the only statewide ballot measure for voters to consider on the March Primary ballot.

ADULT SUBSTANCE USE DISORDER RESIDENTIAL PROGRAMS AND RECOVERY HOUSING LANGUAGE

Proposition 1 allows for a by right, streamlined approval process for developments funded by the bond. Developments that fall under the category of a behavioral health treatment and residential setting – including 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 – will be eligible for by right streamlining and are exempt from CEQA on residential, office, parking, and retail sites.

If projects meet the above criteria, and receive funding through the bond, cities will still be able to apply objective design standards to these projects but will otherwise be limited in their ability to slow down or stop a project from being constructed.

If the bond passes in March, there will be a regulatory review process to further establish eligibility guidelines that will determine how projects will be prioritized for funding by the bond.

BACKGROUND

California's mental health hospital system underwent a transformative process known as deinstitutionalization during the latter half of the 20th century. This paradigm shift involved the

deliberate closure of large, centralized mental health institutions, prompted by concerns over issues such as overcrowding, substandard conditions, and questions about the efficacy of care. In California, as in other states, this process involved the closure of state mental health hospitals and a reallocation of resources toward the development of community mental health services, outpatient care, and supportive housing.

However, the technical challenges of deinstitutionalization became apparent, with some individuals struggling to adapt to community living and concerns emerging about the adequacy of community mental health services. The transition was further complicated by shifts in funding mechanisms and a lack of coordinated planning, leading to gaps in mental health care provision. Further, the decentralization of the state's mental health care system corresponded to higher rates of incarceration.

The rise in incarceration rates hit a tipping point in 2011, when California enacted the Public Safety Realignment Act to address issues of prison overcrowding. The reform's primary objective was the reallocation of certain offender categories from state prisons to county jails and local supervision, accompanied by funding allocations and a decentralization of decision-making. Realignment exacerbated the homelessness and mental health crisis within the state, with many individuals returning to the streets without access to affordable health care and services. With the recent acuity of the homelessness and behavioral health crisis in the state, lawmakers are exploring methods to re-centralize the state's behavioral health care infrastructure.

Mental Health Services Act (MHSA)

Approved by voters in 2004, the Mental Health Services Act (MHSA) places a 1% tax on personal income over \$1 million and dedicates the associated revenues to mental health services. Proposition 63, the voter initiative which enacted the MHSA, was informed and inspired by the emergence of effective practices for dealing with serious mental health conditions and legislatively sponsored pilot projects in comprehensive services that improved outcomes, including reductions in homelessness, criminal justice involvement, and hospitalizations for individuals with serious mental health conditions.

The vast majority of MHSA revenues—at least 95%—goes directly to counties, which use it to support a variety of services for individuals with or at risk of mental illness. Currently, the MHSA establishes broad categories for how counties can spend the funding:

- Community Services and Supports (CSS), which funds direct service provision with the bulk of the funds used for full service partnerships;
- Prevention and Early Intervention (PEI), which funds services that prevent mental illness before it becomes severe; and
- Innovation, which encourages counties to experiment with new approaches to addressing mental illness.

Counties are also permitted to use MHSA funds for Capital Facilities and Technological Needs, which creates additional county infrastructure, such as additional clinics and facilities and/or development of a technological infrastructure for the mental health system, such as electronic health records for mental health services, as well as Workforce Education and Training, which provides training for existing county mental health employees, outreach and recruitment to increase employment in the mental health system, and financial incentives to recruit or retain employees within the public mental health system.

Mental Health Funding Sources

On July 1, 2016, Governor Brown signed landmark legislation enacting the No Place Like Home program to dedicate up to \$2 billion in bond proceeds to invest in the development of permanent supportive housing for persons who are in need of mental health services and are experiencing homelessness, chronic homelessness, or who are at risk of chronic homelessness. In November 2018 voters approved Proposition 2, authorizing the sale of up to \$2 billion of revenue bonds and the use of a portion of Proposition 63 taxes for the NPLH program. Bond proceeds are nearing exhaustion, with close to 75% of total funds allocated.

In addition to the NPLH bond, local governments receive funding from one-time, recurring budget allocations, such as the Homelessness Housing, Assistance and Prevention Program (HHAP), which provides funding to CoCs, counties, and cities over 300,000 in population to fund evidence-based approaches to end and prevent homelessness. HHAP can be used for various purposes, including rental assistance and rapid rehousing, operating subsidies for affordable housing, shelters, supportive housing, incentives for landlords, and supports to improve the local homelessness services and housing delivery system.

PROPOSITION 1

Proposition 1 includes two primary components: a \$6.38 billion bond for mental health infrastructure and recasting the MHSA.

Bond Overview

Proposition 1 authorizes \$6.380 billion in general obligation bonds to finance permanent supportive housing for veterans and others, as well as, unlocked and locked behavioral health treatment and residential settings for individuals experiencing homelessness or at risk of homelessness with severe behavioral health challenges. The measure allows for by right streamlined, ministerial review for capital projects funded by the bond.

Specifically, Proposition 1:

1. Authorizes \$6.380 billion, subject to voter approval, in bond funds to be expended as follows:
 - \$1.05 billion for loans or grants to develop supportive housing for veterans experiencing or at risk of homelessness with behavioral health challenges, administered by the Department of Housing and Community Development (HCD) and the Department of Veterans Affairs (CalVet);
 - \$922 million for loans or grants to develop supportive housing for people experiencing or at risk of homelessness with behavioral health challenges, administered by HCD;
 - \$1.5 billion to be awarded to counties, cities and tribal entities for grants for behavioral health treatment and residential settings eligible under the Behavioral Health Continuum Infrastructure Program (BHCIP), of which \$30 million is designated to tribal entities; and
 - \$2.893 billion for grants for behavioral health treatment and residential settings authorized under BHCIP, to be administered by the Department of Health Care Services (DHCS).

2. Provides that a housing project funded by bond funds for permanent supportive housing for veterans and other individuals experiencing homelessness with behavioral health challenges shall be a use by right and subject to a streamlined, ministerial review process if it meets, among other things, the following criteria:
 - It is located in a zone where multifamily residential use, office, retail, or parking are a principally permitted use;
 - It is not on a specified environmentally sensitive site;
 - Is not on a site or adjoined to any site where more than a third of the square footage on the site is dedicated to industrial use;
 - The development meets specified objective standards;
 - The project meets specified labor standards; and
 - No housing units were obtained by eminent domain.
3. Creates a by right, streamlined approval process, not subject to a conditional use permit, discretionary permit, or any other discretionary review for the following behavioral health treatment and residential settings funded by the Bond, as follows:
 - 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 on sites zoned where residential, office, retail, or parking are a principally permitted use; and
 - Projects that are real estate assets, as defined under BHCIP, on zones where office, retail, or parking are a permitted use.
4. Requires projects as applicable to comply with the core components of Housing First, including recovery housing, which must comply with U.S. Department of Housing and Urban Development (HUD) guidance.

Changes to the MHSA

Proposition 1 revises and recasts the Mental Health Services Act (MHSA) as the "Behavioral Health Services Act (BHSA). Among other provisions, it expands the pool of individuals eligible to receive services to include those with substance use disorders and restructures funding categories to divert a greater portion of funds toward housing and infrastructure development.

- *Restructuring local categorical funding buckets*: The MHSA currently requires counties to allocate approximately 20% to prevention and early intervention, 80% to community services and supports, and 5% of those total funds for Innovative programs. The BHSA would eliminate the separate prevention and early intervention and Innovative funding buckets and restructure other funding to the following:

- 30% for housing interventions for individuals with serious mental illness and/or a substance use disorder. Counties will need to convene with local stakeholders to direct funds toward programs such as, rental subsidies, operating subsidies, capital investments, and nonfederal share for transitional rent. Half of these funds must be used for housing interventions for individuals who are chronically homeless with a focus on those in encampments.
 - 35% for Full-Service Partnerships (FSPs) to be optimized to leverage Medicaid as much as is allowable. FSPs engage individuals with acute mental and emotional disturbances with intensive, team-based, services in the community with a low staff-to-consumer ratio. This funding bucket will service the state's most serious mental health needs.
 - 30% for Behavioral health services and supports, including early intervention, capital facilities and technological needs, workforce education and training, and innovative pilot programs. A majority of these funds must be spent on Early Intervention. This funding restructure is one of the most controversial for some stakeholders because it lumps prevention and early intervention and Innovative programs into one bucket with other categories, and no longer requires counties (only permits them) to provide prevention and early intervention services or pilot Innovative programs.
 - 5% for population-based prevention for mental health and substance use disorder programming. Counties may pilot and test behavioral health models of care programs, community-defined practices, or promising practices for the programs specified in all the above. The goal is to build the evidence base for the effectiveness of new statewide strategies to implement an equitable behavioral system.
- *Broadening the target population:* The measure authorizes BHSA funding to provide treatment and services to individuals who have a debilitating substance use disorder but do not have a co-occurring mental health disorder and increase access to services for individuals with moderate and severe substance disorders.
 - *More workforce development and supportive funds:* The BHSA expands the use of local funds for Workforce Education and Training programs to include workforce recruitment, development, training, and retention; professional licensing and/or certification testing and fees; loan repayment; retention incentives and stipends; internship and apprenticeship programs; continuing education; and efforts to increase the diversity of the behavioral health workforce in the public system.
 - *Most vulnerable populations prioritized:* The BHSA includes language for counties to focus on adults with serious mental illness or substance use disorders and who are at risk of experiencing homelessness or who are at risk of being institutionalized. This is likely to streamline services for individuals with more acute needs.

LOCAL IMPACT

Cities and Counties to Receive \$1.5 billion

Proposition 1 outlines funding allocations that include a \$1.5 billion set aside for cities and counties under the Behavioral Health Continuum Infrastructure Program (BHCIP). The California

Department of Health Care Services (DHCS) was authorized through [2021 legislation](#) to establish the BHCIP and award \$2.2 billion to construct, acquire, and expand properties and invest in mobile crisis infrastructure related to behavioral health. DHCS released these funds through six grant rounds targeting various gaps in the state's behavioral health facility infrastructure, including crisis mobile units, planning, and youth facilities.

If passed by voters at the March Primary election, bond funding could be utilized as soon as the FY 2025-26 budget cycle. \$1.5 billion for cities and counties absent the inclusion of Continuums of Care in the eligibility pool constitutes a major funding source for local governments. However, details about the flexible use, disbursement, and eligibility of funds awaits the regulatory rulemaking process, which will likely be undertaken by DHCS following the measure's passage.

As previously mentioned, local governments, including Continuums of Care, receive \$1 billion annually for homeless and mental health programs via the Housing, Assistance and Prevention Program (HHAP). The HHAP program is not a stable, ongoing source of funding, but rather a program that is reauthorized each fiscal year via the Governor and the Legislature's passage of the Budget Act. Currently, the HHAP program is funded through Round 5, with funding set to expire in 2025 without reauthorization through next years' Budget. If the Governor and the Legislature decide to not continue HHAP funding at \$1 billion per year, this could impact overall funding levels for local government homeless and mental health programs, which could then be supplemented by portions of the bond.

Overall, there are a number of factors that can contribute to the stabilization, increase, or reduction of local government homeless and mental health funding that hinge on how the Legislature, Governor, and agencies would like to see the disbursement of funds through budget and regulatory processes.

Project Streamlining Could Impact Local Land Use

Proposition 1 allows for a by right, streamlined approval process for developments funded by the bond. Permanent supportive housing would be eligible for streamlining on residential, office, parking, and retail sites provided developers met specified labor standards and locate developments on infill sites. A subset of developments that fall under the category of a behavioral health treatment and residential setting – including 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 – are also eligible for by right streamlining and are exempt from CEQA on residential, office, parking, and retail sites.

Other types of real estate assets funded by the bond, including short-term crisis stabilization, acute and subacute care, crisis residential, community-based mental health residential, substance use disorder residential, peer respite, mobile crisis, community and outpatient behavioral health services, and other clinically enriched longer term treatment and rehabilitation options for persons with behavioral health disorders in the least restrictive and least costly setting would be eligible for streamlining on office, parking and retail sites but not on residential sites.

Expansion of Programs at Current Funding Levels Could Impact Service Quality

Counties receiving MHSA funds have expressed concerns over the measure's proposal to reconfigure funding priorities under the revised BHSA plan. Specifically, they argue that Proposition 1 would result in significantly less funding for core services. This is because existing

categories of funding are maximized without flexibility between funding buckets. The BHSA proposal under Proposition 1 would not only reconfigure funding priorities to include a greater percentage of resources diverted from community services and supports to housing development, but would also expand the pool of individuals eligible for services to include those with substance use disorders – not just those with diagnosed mental health disorders. While stakeholders are in agreement that additional funding should be used for housing solutions and substance use disorder treatment, county operators iterate that more funding is needed to achieve these goals, not a reconfiguration of existing funding levels.

Further, Counties have a significant and growing obligation to fund behavioral healthcare services under the Medi-Cal entitlement and use MHSA funds to support that obligation. Counties say that Proposition 1 leaves them with fewer resources to do so, including less funding available to use as Medi-Cal match to draw down additional federal dollars. Counties also state that the housing interventions definition remains too restrictive and will make it more difficult for counties to flexibly tailor programs and fund both subsidies and the robust housing support services some individuals require to be successful in accessing and maintaining housing stability as envisioned by the measure. Additionally, they argue that reserves remain inadequate, volatility remains unaddressed in the near-term under the revised proposal, and new prescriptive state requirements direct how counties must spend BHSA funds and restrict a county's ability to design programs best suited to serving local communities.

PROPOSITION 1 CAMPAIGN

Proposition 1 was championed by Governor Newsom and a bi-partisan coalition of legislators when the measures originated from the 2023 Legislative Session. The measure has been officially endorsed by the following entities:

California Professional Firefighters
The Big City Mayors Coalition
California Hospital Association
Kaiser Permanente
Sutter Health
California Medical Association
SEIU California
NUHW
Union of American Physicians and Dentists (UAPD)
Steinberg Institute
NAMI California
California Veterans Assistance Foundation
Nation's Finest
New Directions for Veterans
Swords to Plowshares
U.S. Vets
Veterans Village of San Diego
The Veteran Mentor Project, Inc.
Veterans Alliance of Orange County
California Association of Veteran Service Agencies
California Correctional Peace Officers Association (CCPOA)
Brooke Jenkins, District Attorney of San Francisco
California Statewide Law Enforcement Association (CSLEA)
Orange County Coalition of Police and Sheriffs (OC Cops)

Peace Officers Research Association of California (PORAC)
Sheriff Jim Cooper
Sheriff Robert Luna
The State Building & Construction Trades Council of California
Federated Indians of Graton Rancheria

“Californians Against Proposition 1” is leading the campaign in opposition of Proposition 1. The campaign's endorsements include Cal Voices, Disability Rights California, Howard Jarvis Taxpayers Association, League of Women Voters of California, and Mental Health America of California.