



Rep. Daniel Didech

Filed: 3/22/2023

10300HB0475ham001

LRB103 04045 KTG 58761 a

1 AMENDMENT TO HOUSE BILL 475

2 AMENDMENT NO. _____. Amend House Bill 475 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Community Mental Health Act is amended by
5 changing Sections 3a, 3b, 3e, and 5 as follows:

6 (405 ILCS 20/3a) (from Ch. 91 1/2, par. 303a)

7 Sec. 3a. Every governmental unit authorized to levy an
8 annual tax under any of the provisions of this Act shall,
9 before it may levy such tax, establish a 7 member community
10 mental health board who shall administer this Act. Such board
11 shall be appointed by the chairman of the governing body of a
12 county, the mayor of a city, the president of a village, the
13 president of an incorporated town, or the supervisor of a
14 township, as the case may be, with the advice and consent of
15 the governing body of such county, city, village, incorporated
16 town or the town board of trustees of any township. Members of

1 the community mental health board shall be residents of the
2 government unit and, as nearly as possible, be representative
3 of interested groups of the community such as local health
4 departments, medical societies, local comprehensive health
5 planning agencies, hospital boards, lay associations concerned
6 with mental health, developmental disabilities and substance
7 abuse, as well as the general public. Only one member shall be
8 a member of the governing body. The chairman of the governing
9 body may, upon the request of the community mental health
10 board, appoint 2 additional members to the community mental
11 health board. No member of the community mental health board
12 may be a full-time or part-time employee of the Department of
13 Human Services or a board member, employee or any other
14 individual receiving compensation from any facility or service
15 operating under contract to the board. If a successful
16 referendum is held under Section 5 of this Act, all members of
17 such board shall be appointed within 60 days after the local
18 election authority certifies the passage of the referendum.

19 Home rule units are exempt from this Act. However, they
20 may, by ordinance, adopt the provisions of this Act, or any
21 portion thereof, that they may deem advisable.

22 The tax rate set forth in Section 4 may be levied by any
23 non-home rule unit only pursuant to the approval by the voters
24 at a referendum. Such referendum may have been held at any time
25 subsequent to the effective date of the Community Mental
26 Health Act.

1 (Source: P.A. 95-336, eff. 8-21-07.)

2 (405 ILCS 20/3b) (from Ch. 91 1/2, par. 303b)

3 Sec. 3b. The term of office of each member of the community
4 mental health board shall be for 4 years, provided, however,
5 that of the members first appointed, 2 shall be appointed for a
6 term of 2 years, 2 for a term of 3 years and 3 for a term of 4
7 years. All terms shall be measured from the first day of the
8 month ~~year~~ of appointment. Vacancies shall be filled for the
9 unexpired term in the same manner as original appointments.

10 (Source: Laws 1965, p. 1037.)

11 (405 ILCS 20/3e) (from Ch. 91 1/2, par. 303e)

12 Sec. 3e. Board's powers and duties.

13 (1) Every community mental health board shall, within 30
14 days after members are first appointed and within 30 days
15 after members are appointed or reappointed upon the expiration
16 of a member's term ~~immediately after appointment~~, meet and
17 organize, by the election of one of its number as president and
18 one as secretary and such other officers as it may deem
19 necessary. It shall make rules and regulations concerning the
20 rendition or operation of services and facilities which it
21 directs, supervises or funds, not inconsistent with the
22 provisions of this Act. It shall:

23 (a) Hold a meeting prior to July 1 of each year at
24 which officers shall be elected for the ensuing year

1 beginning July 1;

2 (b) Hold meetings at least quarterly;

3 (c) Hold special meetings upon a written request
4 signed by at least 2 members and filed with the secretary;

5 (d) Review and evaluate community mental health
6 services and facilities, including services and facilities
7 for the treatment of alcoholism, drug addiction,
8 developmental disabilities, and intellectual
9 disabilities;

10 (e) Authorize the disbursement of money from the
11 community mental health fund for payment for the ordinary
12 and contingent expenses of the board;

13 (f) Submit to the appointing officer and the members
14 of the governing body a written plan for a program of
15 community mental health services and facilities for
16 persons with a mental illness, a developmental disability,
17 or a substance use disorder. Such plan shall be for the
18 ensuing 12 month period. In addition, a plan shall be
19 developed for the ensuing 3 year period and such plan
20 shall be reviewed at the end of every 12 month period and
21 shall be modified as deemed advisable.

22 (g) Within amounts appropriated therefor, execute such
23 programs and maintain such services and facilities as may
24 be authorized under such appropriations, including amounts
25 appropriated under bond issues, if any;

26 (h) Publish the annual budget and report within 120

1 days after the end of the fiscal year in a newspaper
2 distributed within the jurisdiction of the board, or, if
3 no newspaper is published within the jurisdiction of the
4 board, then one published in the county, or, if no
5 newspaper is published in the county, then in a newspaper
6 having general circulation within the jurisdiction of the
7 board. The report shall show the condition of its trust of
8 that year, the sums of money received from all sources,
9 giving the name of any donor, how all monies have been
10 expended and for what purpose, and such other statistics
11 and program information in regard to the work of the board
12 as it may deem of general interest. A copy of the budget
13 and the annual report shall be made available to the
14 Department of Human Services and to members of the General
15 Assembly whose districts include any part of the
16 jurisdiction of such board. The names of all employees,
17 consultants, and other personnel shall be set forth along
18 with the amounts of money received;

19 (i) Consult with other appropriate private and public
20 agencies in the development of local plans for the most
21 efficient delivery of mental health, developmental
22 disabilities, and substance use disorder services. The
23 Board is authorized to join and to participate in the
24 activities of associations organized for the purpose of
25 promoting more efficient and effective services and
26 programs;

1 (j) Have the authority to review and comment on all
2 applications for grants by any person, corporation, or
3 governmental unit providing services within the
4 geographical area of the board which provides mental
5 health facilities and services, including services for the
6 person with a mental illness, a developmental disability,
7 or a substance use disorder. The board may require funding
8 applicants to send a copy of their funding application to
9 the board at the time such application is submitted to the
10 Department of Human Services or to any other local, State
11 or federal funding source or governmental agency. Within
12 60 days of the receipt of any application, the board shall
13 submit its review and comments to the Department of Human
14 Services or to any other appropriate local, State or
15 federal funding source or governmental agency. A copy of
16 the review and comments shall be submitted to the funding
17 applicant. Within 60 days thereafter, the Department of
18 Human Services or any other appropriate local or State
19 governmental agency shall issue a written response to the
20 board and the funding applicant. The Department of Human
21 Services shall supply any community mental health board
22 such information about purchase-of-care funds, State
23 facility utilization, and costs in its geographical area
24 as the board may request provided that the information
25 requested is for the purpose of the Community Mental
26 Health Board complying with the requirements of Section

1 3f, subsection (f) of this Act;

2 (k) Perform such other acts as may be necessary or
3 proper to carry out the purposes of this Act.

4 (2) The community mental health board has the following
5 powers:

6 (a) The board may enter into multiple-year contracts
7 for rendition or operation of services, facilities and
8 educational programs.

9 (b) The board may arrange through intergovernmental
10 agreements or intragovernmental agreements or both for the
11 rendition of services and operation of facilities by other
12 agencies or departments of the governmental unit or county
13 in which the governmental unit is located with the
14 approval of the governing body.

15 (c) To employ, establish compensation for, and set
16 policies for its personnel, including legal counsel, as
17 may be necessary to carry out the purposes of this Act and
18 prescribe the duties thereof. The board may enter into
19 multiple-year employment contracts as may be necessary for
20 the recruitment and retention of personnel and the proper
21 functioning of the board.

22 (d) The board may enter into multiple-year joint
23 agreements, which shall be written, with other mental
24 health boards and boards of health to provide jointly
25 agreed upon community mental health facilities and
26 services and to pool such funds as may be deemed necessary

1 and available for this purpose.

2 (e) The board may organize a not-for-profit
3 corporation for the purpose of providing direct recipient
4 services. Such corporations shall have, in addition to all
5 other lawful powers, the power to contract with persons to
6 furnish services for recipients of the corporation's
7 facilities, including psychiatrists and other physicians
8 licensed in this State to practice medicine in all of its
9 branches. Such physicians shall be considered independent
10 contractors, and liability for any malpractice shall not
11 extend to such corporation, nor to the community mental
12 health board, except for gross negligence in entering into
13 such a contract.

14 (f) The board shall not operate any direct recipient
15 services for more than a 2-year period when such services
16 are being provided in the governmental unit, but shall
17 encourage, by financial support, the development of
18 private agencies to deliver such needed services, pursuant
19 to regulations of the board.

20 (g) Where there are multiple boards within the same
21 planning area, as established by the Department of Human
22 Services, services may be purchased through a single
23 delivery system. In such areas, a coordinating body with
24 representation from each board shall be established to
25 carry out the service functions of this Act. In the event
26 any such coordinating body purchases or improves real

1 property, such body shall first obtain the approval of the
2 governing bodies of the governmental units in which the
3 coordinating body is located.

4 (h) The board may enter into multiple-year joint
5 agreements with other governmental units located within
6 the geographical area of the board. Such agreements shall
7 be written and shall provide for the rendition of services
8 by the board to the residents of such governmental units.

9 (i) The board may enter into multiple-year joint
10 agreements with federal, State, and local governments,
11 including the Department of Human Services, whereby the
12 board will provide certain services. All such joint
13 agreements must provide for the exchange of relevant data.
14 However, nothing in this Act shall be construed to permit
15 the abridgement of the confidentiality of patient records.

16 (j) The board may receive gifts from private sources
17 for purposes not inconsistent with the provisions of this
18 Act.

19 (k) The board may receive Federal, State and local
20 funds for purposes not inconsistent with the provisions of
21 this Act.

22 (l) The board may establish scholarship programs. Such
23 programs shall require equivalent service or reimbursement
24 pursuant to regulations of the board.

25 (m) The board may sell, rent, or lease real property
26 for purposes consistent with this Act.

1 (n) The board may: (i) own real property, lease real
2 property as lessee, or acquire real property by purchase,
3 construction, lease-purchase agreement, or otherwise; (ii)
4 take title to the property in the board's name; (iii)
5 borrow money and issue debt instruments, mortgages,
6 purchase-money mortgages, and other security instruments
7 with respect to the property; and (iv) maintain, repair,
8 remodel, or improve the property. All of these activities
9 must be for purposes consistent with this Act as may be
10 reasonably necessary for the housing and proper
11 functioning of the board. The board may use moneys in the
12 Community Mental Health Fund for these purposes.

13 (o) The board may organize a not-for-profit
14 corporation (i) for the purpose of raising money to be
15 distributed by the board for providing community mental
16 health services and facilities for the treatment of
17 alcoholism, drug addiction, developmental disabilities,
18 and intellectual disabilities or (ii) for other purposes
19 not inconsistent with this Act.

20 (p) The board may fix a fiscal year for the board.

21 Every board shall be subject to the requirements under the
22 Freedom of Information Act and the Open Meetings Act.

23 (Source: P.A. 97-227, eff. 1-1-12.)

24 (405 ILCS 20/5) (from Ch. 91 1/2, par. 305)

25 Sec. 5. (a) When the governing body of a governmental unit

1 passes a resolution as provided in Section 4 asking that an
 2 annual tax may be levied for the purpose of providing such
 3 mental health facilities and services, including facilities
 4 and services for the person with a developmental disability or
 5 a substance use disorder, in the community and so instructs
 6 the clerk of the governmental unit such clerk shall certify
 7 the proposition to the proper election officials for
 8 submission at a regular election in accordance with the
 9 general election law. The proposition shall be in the
 10 following form:

11 -----
 12 Shall..... (governmental
 13 unit) levy an annual tax of (not YES
 14 more than .15%) for the purpose of providing
 15 community mental health facilities and -----
 16 services including facilities and services
 17 for persons ~~the person~~ with a developmental NO
 18 disability or a substance use disorder?
 19 -----

20 (a-5) If the governmental unit is also subject to the
 21 Property Tax Extension Limitation Law, then the proposition
 22 shall also comply with the Property Tax Extension Limitation
 23 Law. Notwithstanding any provision of this subsection, any
 24 referendum imposing an annual tax on or after January 1, 1994
 25 and prior to May 13, 2022 (the effective date of Public Act
 26 102-839) ~~this amendatory Act of the 102nd General Assembly~~

1 that complies with subsection (a) is hereby validated.

2 (b) If a majority of all the votes cast upon the
3 proposition are for the levy of such tax, the governing body of
4 such governmental unit shall thereafter annually levy a tax,
5 as deemed necessary by the community mental health board, not
6 to exceed the rate set forth in Section 4. Thereafter, the
7 governing body shall in the annual appropriation bill
8 appropriate from such funds such sum or sums of money as may be
9 deemed necessary by the community mental health board, based
10 upon the community mental health board's budget, the board's
11 annual mental health report, and the local mental health plan
12 to defray necessary expenses and liabilities in providing for
13 such community mental health facilities and services.

14 (c) If the governing body of a governmental unit levies a
15 tax under Section 4 of this Act and the rate specified in the
16 proposition under subsection (a) of this Section is less than
17 0.15%, then the governing body of the governmental unit may,
18 upon referendum approval, increase that rate to not more than
19 0.15%. The governing body shall instruct the clerk of the
20 governmental unit to certify the proposition to the proper
21 election officials for submission at a regular election in
22 accordance with the general election law. The proposition
23 shall be in the following form:

24 "Shall the tax imposed by (governmental unit) for the
25 purpose of providing community mental health facilities
26 and services, including facilities and services for

1 persons with a developmental disability or substance use
2 disorder be increased to (not more than 0.15%)?"

3 If a majority of all the votes cast upon the proposition
4 are for the increase of the tax, then the governing body of the
5 governmental unit may thereafter annually levy a tax not to
6 exceed the rate set forth in the referendum question.

7 (Source: P.A. 102-839, eff. 5-13-22; 102-935, eff. 7-1-22;
8 revised 8-25-22.)".