



Wheeling Township Community Mental Health Board: Update

Presented by: Kathy Penner

- The Illinois Community Mental Act creates a process after the creation of a Mental Health Board (MHB). Under Section 3e of the Act, the MHB's duties are:
 - Hold its first meeting to organize and elect officers
 - Make Rules for its operations.
 - Obtain a Needs Assessment.
 - Based on the Needs Assessment, the MHB should prepare and submit to the Township Board a proposed written Program to address mental health services and needs.
 - Then, the MHB proposes a Budget and proposed property tax levy to fund the Program.
 - The MHB also reviews and recommends grants to mental health services agencies. z

Citizens presented a Petition to place a referendum question on the November 8, 2022, ballot; requesting .15% or \$8 million in new property taxes. This did not include the PTELL (transparency) language.

Wheeling Township requested applicants for members of the Wheeling Township Community Mental Health Board.



Election: referendum was approved by the voters.

Wheeling Township created the Wheeling Township Community Mental Health Board.

Jan. 2023

Mar. 2023

Wheeling MHB held its first meeting.

Wheeling MHB reviewed existing Wheeling Township Agency Funding Applications

Apr. 2023

Wheeling MHB approved Community Survey and discusses Needs Assessment

May 2023



May 2023

NAMI requested a professional Needs Assessment



June 2023

Wheeling MHB discussed community survey and discussed Needs Assessment



July 2023

Wheeling MHB approved community survey and discussed Needs Assessment

July 2023, Public Act 103-0274 enacted:

- “Any referendum imposing an annual tax on or after January 1, 1994 and prior to May 13, 2022 (the effective date of Public Act 102-839) this amendatory Act of the 102nd General Assembly that complies with subsection (a) is hereby validated.”
- **This did NOT include Wheeling Township’s MHB which was created after May 13, 2022.**



Wheeling Township met with Arlen Gould and Lori Grainawi to discuss missing PTELL (transparency) language in Referendum Question. Arlen Gould requested that the newly corrected Referendum Question PTELL (transparency) language be placed on the ballot by a vote of the Wheeling Township Board.

Wheeling Township MHB created Request for Proposals for professional Needs Assessment

Aug. 2023

Nov. 2023

Aug. 2023

Wheeling Township MHB discussed obtaining a professional Needs Assessment

Sep. 2023

Wheeling Township approved placing Referendum Question on March 2024 ballot to correct missing PTELL (transparency) language information. The General Assembly passed a law that Wheeling Township was not allowed to place the corrected Referendum Question on either March 2024 or November 2024 ballot.



Wheeling Township MHB approved interviewing companies for a professional Needs Assessment

Nov. 2023

Oct. 2023

Wheeling Township MHB interviewed Needs Assessment professional companies and selected Harper College Business Solutions to perform Professional Needs Assessment

November 2023, Illinois General Assembly approved legislation to expand the validation of Township Board initiated MHB referendum questions missing PTELL language but the law did not apply to Wheeling Township which had a citizens initiated MHB referendum



This legislation did not apply to Wheeling Township's Mental Health Board referendum.

Wheeling Township
increased property tax
levy to fund Professional
Needs Assessment

Dec. 2023

Feb. 2024

Needs Assessment underway
with interviews and analysis

March 2024 through
present

Wheeling Township and
Harper began Needs
Assessment process

**June 2024, Public
Act 103-0592
enacted to exempt
property tax levies
for Community
Mental Health Act
purposes from the
Property Tax Caps
(PTELL):**

35 ILCS 200/18-185) Property Tax Code

"Aggregate extension" for the taxing districts to which this Law did not apply before the 1995 levy year (except taxing districts subject to this Law in accordance with Section 18-213) means the annual corporate extension for the taxing district and those special purpose extensions that are made annually for the taxing district, excluding special purpose extensions:

(q) made under Section 4 of the Community Mental Health Act to provide the necessary funds or to supplement existing funds for community mental health facilities and services, including facilities and services for the person with a developmental disability or a substance use disorder

**June 2024, Public
Act 103-0592
enacted to exempt
property tax levies
for Community
Mental Health Act
purposes from the
Property Tax Caps
(PTELL):**

(405 ILCS 20/4) Community Mental Health Act

Sec. 4. In order to provide the necessary funds or to supplement existing funds for such community mental health facilities and services, including facilities and services for the person with a developmental disability or a substance use disorder, the governing body of any governmental unit, subject to the provisions of Section 5, may levy an annual tax of not to exceed .15% upon all of the taxable property in such governmental unit at the value thereof, as equalized or assessed by the Department of Revenue. Such tax shall be levied and collected in the same manner as other governmental unit taxes, but shall not be included in any limitation otherwise prescribed as to the rate or amount of governmental unit taxes, but shall be in addition thereto and in excess thereof. An annual tax levied by any governmental unit under this Section is separate and distinct from all other property taxes levied by that governmental unit and (1) shall not be considered an increase for purposes of the application of the Truth in Taxation Law and its requirements and (2) shall not be subject to the Property Tax Extension Limitation Law.



Aug. 2024

Needs Assessment finalized and presented to MHB



Sep. 2024

MHB to review Needs Assessment to create a Budget for 2025 based on Needs Assessment



Oct. 2024

MHB to make a property tax levy recommendations for 2025 expenditures to Township Board



Nov. 2024

Township Board to approve 2024 tentative property tax levy for 2025 expenditures

Citizens to obtain amendment of law to validate citizens initiated MHB referendum questions

Nov. 2024

Dec. 2024

Township Board to approve final 2024 property tax levy for 2025 expenditures

A black and white photograph of a crowd of people, likely at a conference or meeting, with their hands raised in the air. The image is slightly blurred, creating a sense of movement and activity. The text "QUESTIONS & ANSWERS" is overlaid in the center in a white, serif font.

QUESTIONS & ANSWERS



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July 22, 2024

Wheeling Township Board of Trustees
1616 N. Arlington Heights Road,
Arlington Heights, Illinois 60004

Re: Application of Public Act 103-565 to Wheeling Township's 2022 Community
Mental Health Board Ballot Referendum – Opinion Letter

Dear Supervisor Penner and Township Trustees:

We have been asked to provide an opinion regarding the Township's mental health referendum. The facts, as we understand them, are that at the 2022 general election, certain Wheeling Township's voters approved a citizen petition-initiated ballot referendum creating a Community Mental Health Board and levying a new property tax. The text of the approved Township 2022 ballot referendum asked: "Shall Wheeling Township levy an annual tax not to exceed 0.15% for the purpose of providing mental health facilities and services including facilities and services for the person with a developmental disability or substance abuse disorder, which levy will have a single additional tax of a maximum of 0.15% of the equalized assessed value of the taxable property therein extended for such purposes?"

Any referendum seeking to impose a new rate must also comply with the provisions of the Illinois Property Tax Code. 35 ILCS 200/18-190. Section 18-190(a) requires the following:

The ballot for any proposition submitted pursuant to this Section shall have printed thereon, but not as a part of the proposition submitted, only the following supplemental information (which shall be supplied to the election authority by the taxing district) in substantially the following form:

- (1) The approximate amount of taxes extendable at the most recently extended limiting rate is \$..., and the approximate amount of taxes extendable if the proposition is approved is \$....
- (2) For the ... (insert the first levy year for which the new rate or increased limiting rate will be applicable) levy year the approximate amount of the additional tax extendable against property containing a single family residence and having a fair market value at the time of the referendum of \$100,000 is estimated to be \$....
- (3) Based upon an average annual percentage increase (or decrease) in the market value of such property of %... (insert percentage equal to the average annual percentage increase or decrease for the prior 3 levy years, at the time the submission of the proposition is initiated by the taxing district, in the amount of (A) the equalized assessed value of the taxable property in the taxing district less (B) the new property included in the equalized assessed value), the approximate amount of

the additional tax extendable against such property for the ... levy year is estimated to be \$... and for the ... levy year is estimated to be \$

(4) If the proposition is approved, the aggregate extension for ... (insert each levy year for which the increase will apply) will be determined by the limiting rate set forth in the proposition, rather than the otherwise applicable limiting rate calculated under the provisions of the Property Tax Extension Limitation Law (commonly known as the Property Tax Cap Law).

While the language tracked the requirements of the Community Mental Health Act, it is undisputed that the question that appeared on the ballot did not include the additional language required by the Property Tax Extension Law Limit (“PTELL”) to promote tax transparency. At the 2022 elections, six townships (Addison, Lisle, Naperville, Schaumburg, Vernon, and Wheeling) and Will County passed referenda related to community mental health boards. However, with the exception of Vernon Township’s referendum, the other referenda did not contain the language required by PTELL. Briefly summarized, the question on the ballot specified the percentage of equalized assessed valuation that would be taxed but did not specify the dollar amount of the tax.

In an apparent attempt to remedy this situation without requiring these taxing bodies to seek additional referendum approval, the Illinois General Assembly passed Public Act 103-565, purportedly to cure and validate certain referendums creating community mental health boards approved before November 17, 2023. We have been asked whether Public Act 103-565 cured and validated the township’s 2022 citizen petition-initiated ballot referendum. For the reasons stated below, Public Act 103-565 does not cure and validate the Township’s 2022 ballot referendum as the curative legislation does not apply to citizen petition-initiated ballot referenda.

Non-home rule units of government, such as the Township, must strictly comply with PTELL’s property tax transparency requirements when levying new property taxes via a ballot referendum question authorized by state statute. See 35 ILCS 200/18-190(a). The Second Appellate District has noted this section of the Property Tax Code:

“...appears to override any provisions of other laws, requiring that the taxing entity follow section 18-190(a) (i.e., conduct a direct referendum pursuant to the PTELL’s ballot requirements and article 28 of the Election Code) when it seeks referendum approval to levy a new tax rate authorized by statute.” *Hampshire Twp. Rd. v. Cunningham*, 2016 IL App (2d) 150917 at ¶25.

Additionally, an Illinois court has held that any non-home rule referendum levying a property tax must strictly comply with section 18-190 of the Property Tax Code or a county clerk may refuse to extend the newly levied tax. See *Dundee Township v. Cunningham*, Case No. 21-MR-000801 (Ill. Cir. Ct. Kane County, 2021).

If Public Act 103-565 did not cure and validate the Township's 2022 citizen petition-initiated ballot referendum, the referendum's failure to strictly comply with PTELL will frustrate the Township's efforts to levy and collect the property tax funding the Township Community Mental Health Board approved by the referendum.

The Illinois General Assembly passed Public Act 103-565 on November 17, 2023. This legislation amended the Illinois Election Code, the Property Tax Code, the Counties Code, and the Community Mental Health Act to cure and validate certain ballot referendum questions under the Community Mental Health Act (405 ILCS 20/ *et seq.*).

Public Act 103-565 amended section 5(a-5) of the Community Mental Health Act to cure and validate any resolution-initiated ballot referendum imposing an annual tax approved before November 17, 2023, that complies with section 5(a). See 405 ILCS 20/5(a-5) (codifying Public Act 103-565's amendments to the Community Mental Health Act). Section 5(a) of the Community Mental Health Act covers resolution-initiated ballot referendum questions which are placed before voters at a primary or general election after being approved by a municipal legislative body and certified to election authorities by a municipal clerk. Under the amended section 5(a-5), any **resolution-initiated referendum** creating a community mental health board and levying an annual property tax is cured and validated despite not strictly complying with PTELL if it substantially complies with 405 ILCS 20/5(a).

However, Public Act 103-565, as drafted, does not apply to **citizen petition-initiated referenda** authorized under section 7 of the Community Mental Health Act (405 ILCS 20/7). A citizen petition-initiated ballot referendum is placed before voters at a primary or general election upon citizen petition circulators collecting enough petition signatures to have the ballot referendum question placed on a ballot. The Township's 2022 citizen petition-initiated ballot referendum question was placed on the 2022 general election ballot and approved by township voters under section 7 of the Community Mental Health Act.

As enacted, Public Act 103-565 does not cure and validate the Township's 2022 referendum question because section 5(a-5) of the amended Community Mental Health Act only cures and validates referenda initiated by acts of public bodies, not citizen-initiated referenda. The Township's 2022 ballot referendum question was a citizen petition-initiated ballot referendum and is therefore not cured and validated by Public Act 103-565.

For the reasons explained above, Public Act 103-565 does not cure and validate the Township's 2022 ballot referendum creating a township Community Mental Health Board and levying a new property tax. We are available to discuss the issues addressed in this opinion letter further at your convenience.

ANCEL GLINK

July 22, 2024
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Sincerely yours,

A handwritten signature in black ink, reading "Keri-Lyn Krafthefer". The signature is written in a cursive, flowing style with a long, sweeping underline.

Keri-Lyn Krafthefer

cc: Kenneth Florey, Robbins Schwartz