

Long-Term Care District – Statutory Provisions

46.2895 Long-term care district. (1) CREATION. (a) A county, a tribe or band, or any combination of counties or tribes or bands, may create a special purpose district that is termed a “long-term care district,” that is a local unit of government, that is separate and distinct from, and independent of, the state and the county or tribe or band that created it, and that has the powers and duties specified in this section, if each county or tribe or band that participates in creating the district does all of the following:

1. Adopts an enabling resolution that does all of the following:
 - a. Declares the need for establishing the long-term care district.
 - b. Specifies the long-term care district’s primary purpose, which shall be to operate, under contract with the department, a resource center under s. 46.283, a care management organization under s. 46.284, or a program described under s. 46.2805 (1) (a) or (b).
 - c. Specifies the number of individuals who shall be appointed as members of the long-term care district board, the lengths of their terms, and, if the long-term care district is created by more than one county or tribe or band, how many members shall be appointed by each county or tribe or band.
2. Files copies of the enabling resolution with the secretary of administration, the secretary of health and family services and the secretary of revenue.

(c) A long-term care district may not operate a care management organization under s. 46.284 or a program described under s. 46.2805 (1) (a) or (b) if the district operates a resource center under s. 46.283.

(d) A county or tribe or band may create more than one long-term care district.

(e) A long-term care district may change its primary purpose specified under par. (a) 1. b. if all the counties or tribes or bands that created the district and that have not withdrawn or been removed from the district under sub. (14), adopt a resolution approving the change in primary purpose and if the change in purpose does not violate par. (c) or any provision of a contract between the department and the district.

(2) JURISDICTION. A long-term care district’s jurisdiction is the geographical area of the county or counties that created the long-term care district and the geographic area of the reservation of , or lands held in trust for, any tribe or band that created the long-term care district.

(3) LONG-TERM CARE DISTRICT BOARD. (a) The county board of supervisors of a county or, in a county with a county administrator or county executive, the county administrator or county executive shall appoint the long-term care district board members whom the county is allotted, by resolutions adopted under sub. (1) (a) 1. c., to appoint.

(b) 1. At least one-fourth of the members of a long-term care district board shall be representative of the client group or groups whom it is the long-term care district’s primary purpose to serve or those clients’ family members, guardians, or other advocates.

3. Membership of a long-term care district board shall reflect the ethnic and economic diversity in the jurisdiction of the long-term care district.

4. No member of a long-term care district board may have a private financial interest in or profit directly or indirectly from any contract or other business of the long-term care district.

5. Only individuals who reside within the jurisdiction of a long-term care district may serve as members of the long-term care district board.

(d) As soon as possible after the appointment of the initial members of the long-term care district board, the board shall organize for the transaction of business and elect a chairperson and other necessary officers. Each chairperson shall be elected by the board from time to time for the term of that chairperson's office as a member of the board or for the term of 3 years, whichever is shorter, and shall be eligible for reelection. A majority of the board shall constitute a quorum. Unless specified otherwise in a bylaw adopted by the board, the board may act based on the affirmative vote of a majority of a quorum.

(4) POWERS. Subject to sub. (1) (c), a long-term care district has all the powers necessary or convenient to carry out the purposes and provisions of ss. 46.2805 to 46.2895. In addition to all these powers, a long-term care district may do all of the following:

(a) Adopt and alter, at pleasure, an official seal.

(b) Adopt bylaws and policies and procedures for the regulation of its affairs and the conduct of its business. The bylaws, policies and procedures shall be consistent with ss. 46.2805 to 46.2895 and, if the long-term care district contracts with the department under par. (d) or (dm), with the terms of that contract.

(c) Sue and be sued.

(d) Negotiate and enter into leases or contracts, including a contract with the department to operate either a resource center or a portion of its functions under s. 46.283 or a care management organization under s. 46.284, but not both a resource center or its functions and a care management organization.

(dm) Subject to (1) (c), enter into a contract with the department to operated a program described under s. 46.2805 (1) (a) or (b) and provide services related to the contracted services.

(e) Provide services related to services available under the family care benefit, to older persons and persons with disabilities, in addition to the services funded under the contract with the department that is specified under par. (d).

(f) Acquire, construct, equip, maintain, improve or manage a resource center under s. 46.283 or a care management organization under s. 46.284, but not both.

(g) Subject to sub. (8), employ any agent, employee, or special adviser that the long-term care district finds necessary, fix and regulate his or her compensation and provide, either directly or subject to an agreement under s. 66.0301 as a participant in a benefit plan of another governmental entity, any employee benefits, including an employee pension plan.

(h) Mortgage, pledge or otherwise encumber the long-term care district's property or funds.

(i) Buy, sell or lease property, including real estate, and maintain or dispose of the property.

(j) Invest any funds not required for immediate disbursement in any of the following:

1. An interest-bearing escrow account with a financial institution, as defined in s. 69.30 (1) (b).
2. Time deposits in any financial institution, as defined in s. 69.30 (1) (b), if the time deposits mature in not more than 2 years.
3. Bonds or securities issues or guaranteed as to principal and interest by the federal government or by a commission, board or other instrumentality of the federal government.

(k) Create a risk reserve or other special reserve as the long-term care district board desires or as the department requires under the contract with the department that is specified under par. (d)

(L) Accept aid, including loans, to accomplish the purpose of the long-term care district from any local, state or federal government agency or accept gifts, loans, grants or bequests from individuals or entities, if the conditions under the aid, loan, gift, grant or bequest is furnished are not in conflict with this section.

(m) Make and execute other instruments necessary or convenient to exercise the powers of the long-term care district.

(5) LIMITATION ON POWERS. A long-term care district may not issue bonds or levy a tax or assessment.

(6) DUTIES. The long-term care district board shall do all of the following:

(a) Appoint a director, who shall hold office at the pleasure of the board.

(b) Subject to sub. (8), develop and implement a personnel structure and other employment policies for employees of the long-term care district.

(c) Assure compliance with the terms of any contract with the department under sub. (4) (d) or (dm).

(d) Establish a fiscal operating year and annually adopt a budget for the long-term care district.

(e) Contract for any legal services required for the long-term care district.

(f) Subject to sub. (8), procure liability insurance covering its officers, employees, and agents, insurance against any loss in connection with its property and other assets and other necessary insurance; establish and administer a plan of self-insurance; or, subject to an agreement under s. 66.0301, participate in a governmental plan of insurance or self-insurance.

(7) DIRECTOR; DUTIES. The director appointed under sub. (6) (a) shall do all of the following:

(a) Manage the property and business of the long-term care district and manage the employees of the district, subject to the general control of the long-term care district board.

(b) Comply with the bylaws and direct enforcement of all policies and procedures adopted by the long-term care district board.

(c) Perform duties in addition to those specified in pars. (a) and (b) as are prescribed by the long-term care district board.

(8) EMPLOYMENT AND EMPLOYEE BENEFITS OF CERTAIN EMPLOYEES. (a) A long-term care district that is created at least in part by a county shall do all of the following:

1. If the long-term care district offers employment to any individual who was previously employed by a county, which participated in creating the district and at the time of the offer had not withdrawn or been removed from the district under sub. (14), and who while employed by the county performed duties relating to the same or a substantially similar function for which the individual is offered employment by the district and whose wages, hours and conditions of employment were established in a collective bargaining agreement with the county under subch. IV of ch. 111 that is in effect on the date that the individual commences employment with the district, with respect to that individual, abide by the terms of the collective bargaining agreement concerning the individual's wages and, if applicable, vacation allowance, sick leave accumulation, sick leave bank, holiday allowance, funeral leave allowance, personal day allowance, or paid time off allowance until the time of the expiration of that collective bargaining agreement or adoption of a collective bargaining agreement with the district under subch. IV of ch. 111 covering the individual as an employee of the district, whichever occurs first.

3. If the long-term care district offers employment to any individual who was previously employed by a county, which participated in creating the district and at the time of the offer had not withdrawn or been removed from the district under sub. (14), and who while employed by the county performed duties relating to the same or a substantially similar function for which the individual is offered employment by the district, with respect to that individual, recognize all years of service with the county for any benefit provided or program operated by the district for which an employee's years of service may affect the provision of the benefit or the operation of the program.

4. If the county has not established its own retirement system for county employees, adopt a resolution that the long-term care district be included within the provisions of the Wisconsin retirement system under s. 40.21 (1). In this resolution, the long-term care district shall agree to recognize 100% of the prior creditable service of its employees earned by the employees while employed by the district.

(b) The county board of supervisors of each county that creates the long-term care district shall do all of the following:

1. If the county has established its own retirement system for county employees, provide that long-term care district employees are eligible to participate in the county retirement system.

2m. If the long-term care district employs any individual who was previously employed by the county, provide the individual health care coverage that is similar to the health care coverage that the county provided the individual when he or she was employed by the county.

(c) A long-term care district and any county that created the district and has not withdrawn from or been removed from the district under sub. (14) may enter into an agreement allocating the costs of providing benefits described under this section between the district and the county.

(9) CONFIDENTIALITY OF RECORDS. No record, as defined in s. 19.32 (2), of a long-term care district that contains personally identifiable information, as defined in s. 19.62 (5), concerning an individual who receives services from the long-term care district may be disclosed by the long-term care district without the individual's informed consent, except a required to comply with s. 16.009 (2) (p) or 49.45 (4).

(10) EXCHANGE OF INFORMATION. Notwithstanding sub. (9) and ss. 48.78 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.22 (3), 146.82, 252.11 (7), 253.07 (3) (c) and 938.78 (2) (a), a long-term care district acting under this section may exchange confidential information about a client, as defined in s. 46.287 (1), without the informed consent of the client, under s. 46.21 (2m) (c), 46.215 (1m), 46.22 (1) (dm), 46.23 (3) (e), 46.283 (7), 46.284 (7), 51.42 (3) (e) or 51.437 (4r) (b) in the jurisdiction of the long-term care district, if necessary to enable the long-term care district to perform its duties or to coordinate the delivery of services to the client.

(11) OBLIGATIONS, DEBTS, AND RESPONSIBILITIES NOT THOSE OF COUNTY. The obligations and debts of a long-term care district are not the obligations or debts of any county that created the district. If a long-term care district is obligated by statute or contract to provide or pay for services or benefits, no county is responsible for providing or paying for those services or benefits.

(12) ASSISTANCE TO LONG-TERM CARE DISTRICT. From moneys in a county treasury that are not appropriated to some other purpose, the county board of supervisors may appropriate moneys to a long-term care district that the county participated in creating as a gift or may lend moneys to the long-term care district.

(13) DISSOLUTION. Subject to the performance of the contractual obligations of a long-term care district and if first approved by the secretary of the department, the long-term care district may be dissolved by the joint action of the long-term care district board and each county or tribe or band that created the long-term care district and has not withdrawn or been removed from the district under sub. (14). If a long-term care district that is created by one county or tribe or band is dissolved, the property of the district shall be transferred to the county or tribe or band that created it. If a long-term care district is created by more than one county or tribe or band, all of the counties or tribes or bands that created the district and that have not withdrawn or been removed from the district under sub. (14) shall agree on the apportioning of the long-term care district's property before the district may be dissolved. If the long-term care district operates a care management organization under s. 46.284, disposition of any remaining funds in the risk

reserve under s. 46.284 (5) (e) shall be made under the terms of the district's contract with the department.

(14) WITHDRAWAL OR REMOVAL OF A COUNTY OR TRIBE OR BAND. Subject to approval from the department, a long-term care district may establish conditions for a county or tribe or band that participated with one of more counties or tribes or bands in creating the district to withdraw from the district or for the district to remove the county or tribe or band from the district.