

HOUSE BILL No. 1193

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-6-15.

Synopsis: Opioid litigation. Amends the deadline by which a political subdivision may opt back in to an opioid litigation settlement. Limits the manner by which a political subdivision may pay for the costs, expenses, and attorney's fees arising from opioid litigation. Changes the basis by which the agency settlement fund distributes funds to cities, counties, and towns. Reduces the percentage of opioid litigation settlement funds distributed for use of statewide treatment, education, and prevention programs for opioid use disorder. Provides that 35% of opioid litigation settlement funds are to be distributed to political subdivisions for treatment, education, and prevention programs for opioid use disorder. Removes certain requirements for the secretary of family and social services administration concerning the allocation of funds received from an opioid litigation settlement.

Effective: Upon passage.

Karickhoff

January 6, 2022, read first time and referred to Committee on Ways and Means.



Second Regular Session of the 122nd General Assembly (2022)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2021 Regular Session of the General Assembly.

HOUSE BILL No. 1193

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-6-15-1, AS ADDED BY P.L.165-2021,
2 SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 1. The following definitions apply throughout
4 this chapter:

5 (1) **"Indiana opioid settlement allocation percentages" refers**
6 **to the Indiana city, county, and town percentages contained**
7 **in Exhibit G to the nationwide opioid distributor settlement**
8 **agreement as published on October 22, 2021.**

9 (2) **"National fee fund" means a contingency fee, attorney's**
10 **fee, cost, or expense fund established in a settlement**
11 **agreement executed in opioid litigation.**

12 (⊕) (3) "Opioid" has the meaning set forth in IC 35-48-1-21.

13 (⊖) (4) "Opioid litigation" means any civil lawsuit, demand, or
14 settlement, including any settlement in lieu of litigation, filed
15 against any opioid party for any cause of action filed for the
16 purpose of redressing the impact of the opioid epidemic to the
17 state or any political subdivision.



1 ~~(3)~~ **(5)** "Opioid party" means any manufacturer, consultant,
2 marketer, distributor, prescriber, or dispenser of an opioid
3 product.

4 ~~(4)~~ **(6)** "Political subdivision" has the meaning set forth in
5 IC 34-6-2-110.

6 SECTION 2. IC 4-6-15-2, AS ADDED BY P.L.165-2021,
7 SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 UPON PASSAGE]: Sec. 2. (a) Except as provided in subsection (b), all
9 political subdivisions shall be considered a party to any settlement,
10 including a settlement in lieu of litigation, in opioid litigation by the
11 attorney general with an opioid party that is finalized with court
12 approval after March 1, 2021. Except as provided in subsection (b),
13 political subdivisions shall be bound by the terms of any opioid
14 litigation settlement imposed by a bankruptcy court or any other court
15 of competent jurisdiction as accepted by the attorney general.

16 (b) A political subdivision that has filed opioid litigation on or
17 before January 1, 2021, may opt out of the settlement described in this
18 section and choose to pursue its own claims by submitting written
19 documentation as prescribed in subsection (c) to the attorney general
20 by June 30, 2021. Except as provided in subsection (d), any political
21 subdivision that opts out and chooses to maintain its own lawsuit under
22 this section shall have no claim to any state or political subdivision
23 funds paid according to the settlement authorized or approved by the
24 attorney general.

25 (c) A document submitted by a political subdivision under
26 subsection (b) to opt out of the settlement shall include:

- 27 (1) the name of the political subdivision electing to opt out;
28 (2) contact information for an individual at the political
29 subdivision who can provide information regarding the decision
30 to opt out; and
31 (3) a certified copy of the resolution adopted by the political
32 subdivision to opt out;

33 of the settlement.

34 (d) Notwithstanding subsection (b), a political subdivision may opt
35 back in to a settlement by submission of:

- 36 (1) the name of the political subdivision opting back in;
37 (2) contact information for an individual at the political
38 subdivision who can provide information regarding the decision
39 to opt back in; and
40 (3) a certified copy of the resolution adopted by the political
41 subdivision to opt back in;

42 to the settlement to the attorney general by ~~the earlier of sixty (60) days~~



1 after the political subdivision adopted a resolution to opt out of the
 2 settlement or September 30, 2021, whichever occurs first. **July 15,**
 3 **2022.**

4 (e) A political subdivision that has not made a choice to opt out or
 5 that has opted back in to the settlement is bound by full release, waiver,
 6 and dismissal of all claims against the opioid party.

7 ~~(f) No political subdivision has any claim to any settlement proceeds~~
 8 ~~for litigation against any opioid party not yet filed by the state as of the~~
 9 ~~effective date of this chapter, as added by HEA 1001-2021.~~

10 SECTION 3. IC 4-6-15-3, AS ADDED BY P.L.165-2021,
 11 SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 UPON PASSAGE]: Sec. 3. (a) After January 1, 2021, no political
 13 subdivision shall initiate or file opioid litigation in any court.

14 (b) The state and each political subdivision shall be solely
 15 responsible for paying all costs, expenses, and attorney's fees arising
 16 from opioid litigation brought under their respective authorities,
 17 including any attorney's fees owed to private legal counsel. ~~and may not~~
 18 ~~seek payment for reimbursement of such costs, expenses, and attorney's~~
 19 ~~fees from money to be used for treatment, education, and prevention~~
 20 ~~programs for opioid use disorder and any co-occurring substance use~~
 21 ~~disorder or mental health issues. Payment of attorney's fees may must~~
 22 ~~be sought from specific attorney's fee, costs, and expenses funds set up~~
 23 ~~by the settlement agreement. a national fee fund.~~

24 SECTION 4. IC 4-6-15-4, AS ADDED BY P.L.165-2021,
 25 SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 UPON PASSAGE]: Sec. 4. (a) Funds received from opioid litigation
 27 settlements that resolve existing state and political subdivision
 28 litigation lawsuits as of ~~January 1, 2021,~~ shall be distributed in the
 29 following manner, **unless the distribution of funds conflicts with a**
 30 **valid court order from a bankruptcy court:**

31 (1) Fifteen percent (15%) to the agency settlement fund
 32 established by IC 4-12-16-2 for the benefit of the state.

33 (2) Fifteen percent (15%) to the agency settlement fund
 34 established by IC 4-12-16-2 for distribution to cities, counties,
 35 and towns ~~on a per capita basis. pursuant to the Indiana opioid~~
 36 **settlement allocation percentages.** For purposes of this
 37 subdivision, the population, as determined under IC 1-1-3.5-3(a),
 38 of a county is the aggregate population for all unincorporated
 39 areas of the county.

40 (3) ~~Seventy percent (70%)~~ **Thirty-five percent (35%)** to the
 41 agency settlement fund established by IC 4-12-16-2 to be used for
 42 statewide treatment, education, and prevention programs for



1 opioid use disorder and any co-occurring substance use disorder
 2 or mental health issues as defined or required by the settlement
 3 documents or court order.

4 **(4) Thirty-five percent (35%) to the agency settlement fund**
 5 **established by IC 4-12-16-2 for distribution to the political**
 6 **subdivision in accordance with the Indiana opioid settlement**
 7 **allocation percentages. Distributions under this subdivision**
 8 **may be used only for treatment, education, and prevention**
 9 **programs for opioid use disorder and any co-occurring**
 10 **substance use disorder or mental health issues as defined or**
 11 **required by the settlement documents or court order.**

12 (b) The ~~amount amounts~~ distributed to the agency settlement fund
 13 under subsection (a)(2) ~~is and (a)(4) are~~ annually appropriated to the
 14 office of the attorney general to make the distributions described under
 15 subsection (a)(2) ~~and (a)(4)~~.

16 (c) The amount distributed to the agency settlement fund under
 17 subsection (a)(3) is annually appropriated to the office of the secretary
 18 of family and social services for treatment, education, and prevention
 19 programs for opioid use disorder and any co-occurring substance use
 20 disorder or mental health issues as defined or required by the
 21 settlement documents or court order. ~~The office of the secretary of~~
 22 ~~family and social services shall allocate fifty percent (50%) of the~~
 23 ~~funds received annually under this subsection to eligible~~
 24 ~~community-based treatment, education, and prevention programs for~~
 25 ~~opioid use disorder and any co-occurring substance use disorder or~~
 26 ~~mental health issues. The office of the secretary of family and social~~
 27 ~~services shall divide the state into regions based on population and~~
 28 ~~ensure that funds are awarded to participating entities in each region of~~
 29 ~~the state. Data from calendar years beginning after December 31, 2017,~~
 30 ~~and ending before January 1, 2021, related to opioid use disorder~~
 31 ~~during those calendar years, including overdoses and deaths, may be~~
 32 ~~considered in the process of determining regional funding allocations~~
 33 ~~under this subsection. The office of the secretary of family and social~~
 34 ~~services may adopt rules under IC 4-22-2 to define the regions within~~
 35 ~~the state and for determining a process for the application and awarding~~
 36 ~~of funds. Before the remaining fifty percent (50%) **thirty-five percent**~~
 37 ~~**(35%)** of the funds received under this subsection may be distributed,~~
 38 ~~the office of the secretary of family and social services shall submit a~~
 39 ~~distribution plan to the budget committee for review.~~

40 **(d) Funds derived from a state settlement of claims against an**
 41 **opioid party shall be allocated and disbursed only to the political**
 42 **subdivisions that executed an agreement to participate in a**



1 **settlement and adhere to the terms of the agreement.**
2 ~~(d)~~ **(e)** All entities receiving settlement funds to be used for
3 treatment, education, and prevention programs for opioid use disorder
4 and any co-occurring substance use disorder or mental health issues
5 shall monitor the use of those funds and provide an annual report to the
6 office of the secretary of family and social services not later than a date
7 determined by the office of the secretary of family and social services.
8 ~~(e)~~ **(f)** The office of the secretary of family and social services shall
9 compile and submit an annual comprehensive report of the information
10 received under ~~subsection (d)~~ **subsection (e)** to the general assembly
11 in an electronic format under IC 5-14-6 not later than October 1 of each
12 year identifying all funds committed and used as specified by any
13 settlement documents or court order.
14 **SECTION 5. An emergency is declared for this act.**

