



February 18, 2022

ENGROSSED HOUSE BILL No. 1193

DIGEST OF HB 1193 (Updated February 17, 2022 9:40 am - DI 129)

Citations Affected: IC 4-6.

Synopsis: Opioid litigation. Amends the deadline by which a political subdivision may opt back in to an opioid litigation settlement. Requires a political subdivision to submit a copy of the agreement executed between the political subdivision and the private legal counsel of the political subdivision when opting back into the opioid litigation
(Continued next page)

Effective: Upon passage.

Karickhoff, Brown T, GiaQuinta

(SENATE SPONSORS — MISHLER, RANDOLPH LONNIE M)

January 6, 2022, read first time and referred to Committee on Ways and Means.
January 20, 2022, amended, reported — Do Pass.
January 25, 2022, read second time, amended, ordered engrossed.
January 26, 2022, engrossed. Read third time, passed. Yeas 94, nays 0.

SENATE ACTION

February 2, 2022, read first time and referred to Committee on Appropriations.
February 17, 2022, amended, reported favorably — Do Pass.

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Digest Continued

settlement. Removes language providing that no political subdivision has any claim to any settlement proceeds for litigation against any opioid party not yet filed by the state as of a certain date. Removes certain requirements concerning the payment of costs, expenses, and attorney's fees and costs 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 cities, counties, and towns for programs for treatment, prevention, and care that are best practices for opioid use disorder. Provides that funds received from the opioid settlement may not be distributed to a city, county, or town that has opted out of the settlement and that the remaining funds shall be distributed to the cities, counties, or towns that have opted into the settlement.



February 18, 2022

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.

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

11 (b) A political subdivision that has filed opioid litigation on or
12 before January 1, 2021, may opt out of the settlement described in this
13 section and choose to pursue its own claims by submitting written
14 documentation as prescribed in subsection (c) to the attorney general
15 by June 30, 2021. Except as provided in subsection (d), any political
16 subdivision that opts out and chooses to maintain its own lawsuit under
17 this section shall have no claim to any state or political subdivision

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1 funds paid according to the settlement authorized or approved by the
2 attorney general.

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

- 5 (1) the name of the political subdivision electing to opt out;
6 (2) contact information for an individual at the political
7 subdivision who can provide information regarding the decision
8 to opt out; and
9 (3) a certified copy of the resolution adopted by the political
10 subdivision to opt out;

11 of the settlement.

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

- 14 (1) the name of the political subdivision opting back in;
15 (2) contact information for an individual at the political
16 subdivision who can provide information regarding the decision
17 to opt back in; and
18 (3) a certified copy of the resolution adopted by the political
19 subdivision to opt back in; and

20 **(4) a copy of the agreement that includes a term setting the**
21 **amount of attorney's fees and costs owed to the private legal**
22 **counsel executed between the private legal counsel of the**
23 **political subdivision and the political subdivision that is opting**
24 **back in;**

25 to the settlement to the attorney general by the earlier of sixty (60) days
26 after the political subdivision adopted a resolution to opt out of the
27 settlement or September 30, 2021, whichever occurs first. **July 15,**
28 **2022.**

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

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

35 SECTION 2. IC 4-6-15-3, AS ADDED BY P.L.165-2021,
36 SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
37 UPON PASSAGE]: Sec. 3. ~~(a)~~ After January 1, 2021, no political
38 subdivision shall initiate or file opioid litigation in any court.

39 ~~(b) The state and each political subdivision shall be solely~~
40 ~~responsible for paying all costs, expenses, and attorney's fees arising~~
41 ~~from opioid litigation brought under their respective authorities,~~
42 ~~including any attorney's fees owed to private legal counsel, and may not~~



1 seek payment for reimbursement of such costs, expenses, and attorney's
 2 fees from money to be used for treatment, education, and prevention
 3 programs for opioid use disorder and any co-occurring substance use
 4 disorder or mental health issues. Payment of attorney's fees may be
 5 sought from specific attorney's fee, costs, and expenses funds set up by
 6 the settlement agreement.

7 SECTION 3. IC 4-6-15-4, AS ADDED BY P.L.165-2021,
 8 SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 UPON PASSAGE]: Sec. 4. (a) Funds received from opioid litigation
 10 settlements that resolve existing state and political subdivision
 11 litigation lawsuits as of January 1, 2021, shall be distributed in the
 12 following manner:

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

15 (2) Fifteen percent (15%) to the agency settlement fund
 16 established by IC 4-12-16-2 for distribution to cities, counties,
 17 and towns on a per capita basis. For purposes of this subdivision,
 18 ~~the population, as determined under IC 1-1-3.5-3(a), of a county~~
 19 ~~is the aggregate population for all unincorporated areas of the~~
 20 ~~county; according to a weighted distribution formula~~
 21 **identified in settlement documents that accounts for opioid**
 22 **impacts in communities.**

23 (3) ~~Seventy percent (70%)~~ **Thirty-five percent (35%)** to the
 24 agency settlement fund established by IC 4-12-16-2 to be used for
 25 statewide treatment, education, and prevention programs for
 26 opioid use disorder and any co-occurring substance use disorder
 27 or mental health issues as defined or required by the settlement
 28 documents or court order.

29 (4) **Thirty-five percent (35%) to the agency settlement fund**
 30 **established by IC 4-12-16-2 for distribution to cities, counties,**
 31 **and towns according to a weighted distribution formula**
 32 **identified in settlement documents that accounts for opioid**
 33 **impacts in communities. However, if a city's or town's annual**
 34 **distribution under this subdivision is less than one thousand**
 35 **dollars (\$1,000), the city's or town's annual distribution must**
 36 **instead be distributed to the county in which the city or town**
 37 **is located. Distributions under this subdivision may be used**
 38 **only for programs of treatment, prevention, and care that are**
 39 **best practices as defined or required by the settlement**
 40 **documents or court order.**

41 (b) ~~The amount amounts~~ distributed to the agency settlement fund
 42 ~~under subsection (a)(2) is subsection (a)(2) and (a)(4) are~~ annually



1 appropriated to the office of the attorney general to make the
 2 distributions described under ~~subsection (a)(2)~~: **subsection (a)(2) and**
 3 **(a)(4)**.

4 **(c) Funds received from the settlement may not be distributed**
 5 **to a city, county, or town that has opted out of the settlement under**
 6 **section 2(b) of this chapter. The settlement funds that are not**
 7 **distributed to the cities, counties, or towns that have opted out of**
 8 **the settlement must be distributed in the manner set forth under**
 9 **subsection (a)(2) and (a)(4) to the cities, counties, or towns that**
 10 **have opted into the settlement.**

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

35 ~~(d)~~ **(e)** All entities receiving settlement funds to be used for
 36 treatment, education, and prevention programs for opioid use disorder
 37 and any co-occurring substance use disorder or mental health issues
 38 shall monitor the use of those funds and provide an annual report to the
 39 office of the secretary of family and social services not later than a date
 40 determined by the office of the secretary of family and social services.

41 ~~(e)~~ **(f)** The office of the secretary of family and social services shall
 42 compile and submit an annual comprehensive report of the information



1 received under subsection ~~(d)~~ (e) to the general assembly in an
2 electronic format under IC 5-14-6 not later than October 1 of each year
3 identifying all funds committed and used as specified by any settlement
4 documents or court order.

5 SECTION 4. IC 4-6-15-5 IS ADDED TO THE INDIANA CODE
6 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE
7 UPON PASSAGE]: **Sec. 5. Before distributing funds to a city,
8 county, or town that has opted back into a settlement under section
9 2(d) of this chapter, the budget agency shall:**

- 10 (1) withhold from distribution to the city, county, or town the
11 funds owed to the private legal counsel of the city, county, or
12 town in the amount set forth in the agreement between the
13 city, county, or town and private legal counsel; and
14 (2) distribute the attorney's fees and costs to the private legal
15 counsel of the city, county, or town in the amount set forth in
16 the agreement between the city, county, or town and private
17 legal counsel.

18 SECTION 5. An emergency is declared for this act.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1193, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1193 as introduced.)

BROWN T

Committee Vote: yeas 20, nays 0.

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1193 be amended to read as follows:

Page 2, line 40, strike "on a per capita basis. For purposes of this subdivision,".

Page 2, strike lines 41 through 42.

Page 3, line 1, strike "county." and insert "**according to a weighted distribution formula identified in settlement documents that accounts for opioid impacts in communities.**"

Page 3, line 2, strike "Seventy percent (70%)" and insert "**Thirty-five percent (35%)**".

Page 3, between lines 6 and 7, begin a new line block indented and insert:

"(4) Thirty-five percent (35%) to the agency settlement fund established by IC 4-12-16-2 for distribution to cities, counties, and towns according to a weighted distribution formula identified in settlement documents that accounts for opioid impacts in communities. However, if a city's or town's annual distribution under this subdivision is less than one thousand dollars (\$1,000), the city's or town's annual distribution must instead be distributed to the county in which the city or town is located. Distributions under this subdivision may be used only for regional programs of treatment, prevention, and care



that are best practices as defined or required by the settlement documents or court order."

Page 3, line 7, strike "amount" and insert "**amounts**".

Page 3, line 8, strike "subsection (a)(2) is" and insert "**subsection (a)(2) and (a)(4) are**".

Page 3, line 9, strike "subsection (a)(2)." and insert "**subsection (a)(2) and (a)(4).**".

Page 3, line 15, strike "The office of the secretary of".

Page 3, strike lines 16 through 17.

Page 3, line 30, delete "regional programs of treatment, prevention, and care that".

Page 3, delete line 31.

Page 3, line 32, delete "family and social services."

Page 3, line 32, strike "remaining fifty percent (50%)" and insert "**thirty-five percent (35%)**".

(Reference is to HB 1193 as printed January 20, 2022.)

BROWN T

COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred House Bill No. 1193, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 17, strike "and".

Page 2, line 19, after "in;" insert "**and**

(4) a copy of the agreement that includes a term setting the amount of attorney's fees and costs owed to the private legal counsel executed between the private legal counsel of the political subdivision and the political subdivision that is opting back in;".

Page 2, between lines 29 and 30, begin a new paragraph and insert: "SECTION 2. IC 4-6-15-3, AS ADDED BY P.L.165-2021, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. ~~(a)~~ After January 1, 2021, no political subdivision shall initiate or file opioid litigation in any court.

~~(b) The state and each political subdivision shall be solely responsible for paying all costs, expenses, and attorney's fees arising~~

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from opioid litigation brought under their respective authorities, including any attorney's fees owed to private legal counsel, and may not seek payment for reimbursement of such costs, expenses, and attorney's fees from money to be used for treatment, education, and prevention programs for opioid use disorder and any co-occurring substance use disorder or mental health issues. Payment of attorney's fees may be sought from specific attorney's fee, costs, and expenses funds set up by the settlement agreement."

Page 3, line 19, delete "regional".

Page 3, between lines 26 and 27 begin a new paragraph and insert:

"(c) Funds received from the settlement may not be distributed to a city, county, or town that has opted out of the settlement under section 2(b) of this chapter. The settlement funds that are not distributed to the cities, counties, or towns that have opted out of the settlement must be distributed in the manner set forth under subsection (a)(2) and (a)(4) to the cities, counties, or towns that have opted into the settlement."

Page 3, line 27, strike "(c)" and insert "(d)".

Page 4, line 9, strike "(d)" and insert "(e)".

Page 4, line 15, strike "(e)" and insert "(f)".

Page 4, line 17, strike "(d)" and insert "(e)".

Page 4, between lines 20 and 21, begin a new paragraph and insert:

"SECTION 5. IC 4-6-15-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. Before distributing funds to a city, county, or town that has opted back into a settlement under section 2(d) of this chapter, the budget agency shall:

- (1) withhold from distribution to the city, county, or town the funds owed to the private legal counsel of the city, county, or town in the amount set forth in the agreement between the city, county, or town and private legal counsel; and**
- (2) distribute the attorney's fees and costs to the private legal counsel of the city, county, or town in the amount set forth in the agreement between the city, county, or town and private legal counsel."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.



(Reference is to HB 1193 as reprinted January 26, 2022.)

MISHLER, Chairperson

Committee Vote: Yeas 11, Nays 0.

