

## **BILL ANALYSIS**

Senate Research Center

S.B. 1827  
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Finance  
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Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

According to the Centers for Disease Control (CDC), opioids were involved in 49,860 overdose deaths in 2019. This accounted for over 70 percent of all drug overdose deaths. While this is a public health and public safety crisis in Texas, opioids are wreaking havoc on Americans everywhere. In order to address and respond to this crisis, several multi-state lawsuits have been filed that seek financial damages from opioid manufacturers and distributors. Texas is party to most, if not all, of these multi-jurisdictional suits.

As a result of these suits and their respective settlements, Texas could see hundreds of millions of dollars flow through the state, and accordingly, through the state budget. Currently, these funds, once they get to Texas, are slated to be delivered straight to general revenue.

S.B. 1827 seeks to dedicate the state portion of the settlement funds from the opioid settlements to opioid abatement, and outline certain preferred avenues for opioid abatement.

(Original Author's/Sponsor's Statement of Intent)

S.B. 1827 amends current law relating to the creation of the opioid abatement account, an opioid abatement trust fund, and a statewide opioid settlement agreement.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 403, Government Code, by adding Subchapter R, as follows;

#### **SUBCHAPTER R. STATEWIDE OPIOID SETTLEMENT AGREEMENT**

Sec. 403.501. DEFINITIONS. Defines "account," "council," "fund," "released entity," "statewide opioid settlement agreement," and "trust company."

Sec. 403.502. SETTLEMENT RECORDS. Requires the attorney general and the Comptroller of Public Accounts of the State of Texas (comptroller) to maintain a copy of a statewide opioid settlement agreement, including any amendments to the agreement, and make the copy available on the attorney general's and comptroller's Internet websites.

Sec. 403.503. TEXAS OPIOID FUND ABATEMENT FUND COUNCIL. (a) Provides that the Texas opioid abatement fund council (council) is established to ensure that money recovered by this state through a statewide opioid settlement agreement is allocated fairly and spent to remediate the opioid crisis in this state by using efficient and cost-effective methods that are directed to regions of this state experiencing opioid-related harms.

(b) Provides that the council is composed of the following 14 members:

(1) six regional members, appointed by the executive commissioner of the Health and Human Services Commission (executive commissioner), who are from academia or the medical profession with significant experience in opioid interventions and who each are appointed to represent certain groups of regional health care partnership regions;

(2) four members who are current or retired health care professionals holding or formerly holding a license under Title 3 (Health Professions), Occupations Code, with significant experience in treating opioid-related harms and who are appointed as follows:

(A) one member appointed by the governor;

(B) one member appointed by the lieutenant governor;

(C) one member appointed by the speaker of the Texas House of Representatives (house); and

(D) one member appointed by the attorney general;

(3) one member who is employed by a hospital district and is appointed by the governor;

(4) one member who is employed by a hospital district and is appointed by the attorney general;

(5) one member appointed by the governor and who is a member of a law enforcement agency and has experience with opioid-related harms; and

(6) one nonvoting member who serves as the presiding officer of the council and is the comptroller or the comptroller's designee.

(c) Requires the executive commissioner, in making appointments under Subsection (b)(1), to appoint members from a list of two qualified candidates provided by the governing bodies of counties and municipalities that:

(1) brought a civil action for an opioid-related harm against a released entity;

(2) released an opioid-related harm claim in a statewide opioid settlement agreement; and

(3) are located within the regions for which the member is being appointed.

(d) Requires the governor, lieutenant governor, speaker of the house, and attorney general, in making appointments under Subsection (b), to coordinate to ensure that the membership of the council reflects, to the extent possible, the ethnic and geographic diversity of this state.

(e) Provides that the council is administratively attached to the comptroller. Requires the comptroller to provide the staff and facilities necessary to assist the council in performing its duties.

Sec. 403.504. COUNCIL OPERATION. (a) Provides that a council member is not entitled to compensation for council service but is entitled to reimbursement for actual and necessary expenses incurred in performing council duties.

(b) Authorizes the council to hold public meetings as necessary to fulfill its duties under this subchapter.

(c) Provides that the council is subject to Chapters 551 (Open Meetings) and 552 (Public Information).

Sec. 403.505. OPIOID ABATEMENT ACCOUNT. (a) Provides that the opioid abatement account (account) is a dedicated account in the general revenue fund administered by the comptroller.

(b) Provides that the account is composed of:

(1) money obtained from a statewide opioid settlement agreement and deposited in the account under Section 403.507;

(2) money received by the state from any other source resulting directly or indirectly from an action by the state against an opioid manufacturer, an opioid distributor, or another person in the opioid industry relating to a violation of state or federal law on the manufacture, marketing, distribution, or sale of opioids, other than money distributed to a political subdivision of the state in accordance with the terms of a settlement agreement or judgment;

(3) money appropriated or transferred to the account by the legislature;

(4) gifts and grants contributed to the account; and

(5) earnings on the principal of the account.

(c) Authorizes money in the account to be appropriated only to a state agency for the abatement of opioid-related harms.

(d) Authorizes a state agency to use money appropriated from the account only to:

(1) prevent opioid use disorder through evidence-based education and prevention, such as school-based prevention, early intervention, or health care services or programs intended to reduce the risk of opioid use by school-age children;

(2) support efforts to prevent or reduce deaths from opioid overdoses or other opioid-related harms, including through increasing the availability or distribution of naloxone or other opioid antagonists for use by health care providers, first responders, persons experiencing an opioid overdose, families, schools, community-based service providers, social workers, or other members of the public;

(3) create and provide training on the treatment of opioid addiction, including the treatment of opioid dependence with each medication approved for that purpose by the United States Food and Drug Administration, medical detoxification, relapse prevention, patient assessment, individual treatment planning, counseling, recovery supports, diversion control, and other best practices;

(4) provide opioid use disorder treatment for youths and adults, with an emphasis on programs that provide a continuum of care that includes screening and assessment for opioid use disorder and co-occurring behavioral health disorders, early intervention, contingency management, cognitive behavioral therapy, case management, relapse management, counseling services, and medication-assisted treatments;

(5) provide patients suffering from opioid dependence with access to all medications approved by the United States Food and Drug Administration

for the treatment of opioid dependence and relapse prevention following opioid detoxification, including opioid agonists, partial agonists, and antagonists;

(6) support efforts to reduce the abuse or misuse of addictive prescription medications, including tools used to give health care providers information needed to protect the public from the harm caused by improper use of those medications;

(7) support treatment alternatives that provide both psychosocial support and medication-assisted treatments in areas with geographical or transportation-related challenges, including providing access to mobile health services and telemedicine, particularly in rural areas;

(8) address the needs of persons involved with criminal justice, and rural county unattended deaths; or

(9) further any other purpose related to opioid abatement authorized by appropriation.

(e) Provides that Section 404.071 (Disposition of Interest on Investments) does not apply to the account.

Sec. 403.506. OPIOID ABATEMENT TRUST FUND. (a) Provides that the opioid abatement trust fund (fund) is a trust fund established outside of the state treasury for the purposes of this subchapter that is administered by the Texas Treasury Safekeeping Trust Company (trust company). Authorizes the trust company to authorize money from the fund to be invested with money from the state treasury.

(b) Provides that the fund consists of money obtained under a statewide opioid settlement agreement and deposited in the fund under Section 403.507, and interest, dividends, and other income of the fund.

(c) Requires the trust company to:

(1) distribute to counties and municipalities to address opioid-related harms in those communities an amount equal to 15 percent of the total amount of money obtained under a statewide opioid settlement agreement and distributed to the fund and the account under Section 403.507; and

(2) allocate an amount equal to 70 percent of the total amount of money obtained under a statewide opioid settlement agreement and distributed to the fund and the account under Section 403.507 as follows:

(A) \$5 million of the amount distributed to the fund to the Texas Access to Justice Foundation to be expended only on the order of the Supreme Court of Texas for the purpose of providing basic civil legal services to indigent persons directly impacted by opioid-use disorders, including children who need basic civil legal services as a result of opioid-use disorders by a parent, legal guardian or caretaker; and

(B) the remainder of that 70 percent to the council.

(d) Requires the trust company to distribute money allocated under Subsection (c)(2) at the direction of the council.

(e) Requires the council to provide to the trust company an annual forecast of money deposited and withdrawn from the fund and provide updates to the forecast

as appropriate to ensure the trust company is able to achieve the council's directives.

(f) Provides that, in investing money from the fund and subject to the council's direction, the trust company has the same investment authority with respect to the fund as the comptroller has under Sections 404.0241(a) (relating to authorizing the comptroller to acquire, exchange, sell, supervise, manage, or retain any kind of investment that a prudent investor exercising reasonable care, skill, and caution would acquire, exchange, sell, supervise, manage, or retain in light of the purposes, terms, distribution requirements, and other circumstances then prevailing for the fund, taking into consideration the investment of all the assets of the fund rather than a single investment) and (c) (relating to authorizing the comptroller to pool assets of the economic stabilization fund with other state assets for purposes of investment) with respect to the economic stabilization fund.

Sec. 403.507. DEPOSIT AND ALLOCATION OF SETTLEMENT MONEY; EFFECT OF BANKRUPTCY. (a) Requires that money obtained under a statewide opioid settlement agreement be deposited as provided by this section and further allocated in accordance with the settlement agreement.

(b) Provides that, of money obtained under a statewide opioid settlement agreement 15 percent is required to be deposited into the account, and 85 percent is required to be deposited into the fund.

(c) Provides that, for the purposes of a statewide opioid settlement agreement in relation to a bankruptcy plan for a released entity, money is distributed in accordance with the bankruptcy plan.

Sec. 403.508. COUNCIL ALLOCATION OF MONEY. (a) Requires the council, of the money allocated to the council under Section 403.506(c)(2), to allocate one percent to the comptroller for the administration of the council and this subchapter, 15 percent to hospital districts, and the remaining money based on the opioid abatement strategy developed by the council under Section 403.509.

(b) Authorizes the comptroller to spend money from the fund for purposes of Subsection (a)(1). Authorizes the comptroller, if the comptroller determines that the allocation under that subdivision exceeds the amount that is reasonable and necessary for the comptroller to administer the council and this subchapter, to reallocate the excess money in accordance with Subsection (a)(3).

Sec. 403.509. COUNCIL POWERS AND DUTIES AND COUNCIL-APPROVED OPIOID ABATEMENT STRATEGY. (a) Requires the council to:

(1) determine and approve one or more evidence-based opioid abatement strategies that include:

(A) an annual regional allocation methodology to distribute 75 percent of money distributed under Section 403.508(a)(3) based on population health information and prevalence of opioid incidences as provided by law; and

(B) an annual targeted allocation to distribute 25 percent of money distributed under Section 403.508(a)(3) for targeted interventions as identified by opioid incidence information;

(2) wholly or partly reallocate the targeted money between regions if a region for which targeted money is allocated is unable to use all of the targeted money;

(3) develop an application and award process for funding;

(4) review grant funding applications and provide grant awards and funding allocations;

(5) monitor grant agreements authorized by this subchapter and require each grant recipient to comply with the terms of the grant agreement or reimburse the grant to the council; and

(6) determine the percentage of money that may be used for development of education and outreach programs to provide materials on the consequences of opioid drug use and prevention and intervention, including online resources and toolkits.

(b) Authorizes the council to reallocate money between regions based on the funding needs of all regions if money allocated to a region lapses or is not used in the year that the money is allocated for use in the region.

(c) Requires at least four of the members appointed under Section 403.503(b)(1) and four of the members appointed under Sections 403.503(b)(2)-(5), to approve any decision or strategy, to approve the decision or strategy.

Sec. 403.510. REPORT. Requires the council, not later than October 1 of each year, to submit a written report to the legislature detailing all expenditures made by the council during the preceding state fiscal year.

Sec. 403.511. RULEMAKING. Authorizes the council to adopt rules to implement this subchapter.

SECTION 2. Requires the individuals responsible for appointing the council under Section 403.503, Government Code, as added by this Act, to make all appointments under that section not later than the 60th day after the effective date of this Act.

SECTION 3. Provides that the comptroller is required to implement a provision of this Act only if the legislature appropriates money specifically for that purpose. Provides that, if the legislature does not appropriate money specifically for that purpose, the comptroller is authorized, but is not required, to implement a provision of this Act using other appropriations available for that purpose.

SECTION 4. Effective date: upon passage or September 1, 2021.