

By: Huffman, et al.  
(Holland)

S.B. No. 1827

Substitute the following for S.B. No. 1827:

By: Holland

C.S.S.B. No. 1827

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the opioid abatement account, an opioid abatement trust fund, and a statewide opioid settlement agreement.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 403, Government Code, is amended by adding Subchapter R to read as follows:

SUBCHAPTER R. STATEWIDE OPIOID SETTLEMENT AGREEMENT

Sec. 403.501. DEFINITIONS. In this subchapter:

(1) "Account" means the opioid abatement account established by Section 403.505.

(2) "Council" means the Texas opioid abatement fund council established by Section 403.503 to manage the distribution of money allocated to the council from the opioid abatement trust fund in accordance with a statewide opioid settlement agreement.

(3) "Fund" means the opioid abatement trust fund established by Section 403.506.

(4) "Released entity" means an entity against which a claim is released under a statewide opioid settlement agreement.

(5) "Statewide opioid settlement agreement" means all settlement agreements and related documents entered into by this state through the attorney general, political subdivisions that have brought a civil action for an opioid-related harm claim against an opioid manufacturer, distributor, or retailer, and opioid manufacturers, distributors, or retailers relating to

1 illegal conduct in the marketing, promotion, sale, distribution,  
2 and dispensation of opioids that provide relief for this state and  
3 political subdivisions of this state.

4 (6) "Trust company" means the Texas Treasury  
5 Safekeeping Trust Company.

6 Sec. 403.502. SETTLEMENT RECORDS. The attorney general and  
7 comptroller shall maintain a copy of a statewide opioid settlement  
8 agreement, including any amendments to the agreement, and make the  
9 copy available on the attorney general's and comptroller's Internet  
10 websites.

11 Sec. 403.503. TEXAS OPIOID ABATEMENT FUND COUNCIL.

12 (a) The Texas opioid abatement fund council is established to  
13 ensure that money recovered by this state through a statewide  
14 opioid settlement agreement is allocated fairly and spent to  
15 remediate the opioid crisis in this state by using efficient and  
16 cost-effective methods that are directed to regions of this state  
17 experiencing opioid-related harms.

18 (b) The council is composed of the following 14 members:

19 (1) six regional members, appointed by the executive  
20 commissioner of the Health and Human Services Commission, who are  
21 from academia or the medical profession with significant experience  
22 in opioid interventions and who each are appointed to represent one  
23 of the following groups of regional health care partnership  
24 regions:

25 (A) regions 9 and 10;

26 (B) region 3;

27 (C) regions 11, 12, 13, 14, 15, and 19;

1           (D) regions 6, 7, 8, and 16;

2           (E) regions 1, 2, 17, and 18; and

3           (F) regions 4, 5, and 20;

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

8                   (A) one member appointed by the governor;

9                   (B) one member appointed by the lieutenant  
10 governor;

11                   (C) one member appointed by the speaker of the  
12 house of representatives; and

13                   (D) one member appointed by the attorney general;

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

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

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

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

24           (c) In making appointments under Subsection (b)(1), the  
25 executive commissioner of the Health and Human Services Commission  
26 shall appoint members from a list of two qualified candidates  
27 provided by the governing bodies of counties and municipalities

1 that:

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

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

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

8 (d) In making appointments under Subsection (b), the  
9 governor, lieutenant governor, speaker of the house of  
10 representatives, and attorney general shall coordinate to ensure  
11 that the membership of the council reflects, to the extent  
12 possible, the ethnic and geographic diversity of this state.

13 (e) The council is administratively attached to the  
14 comptroller. The comptroller shall provide the staff and  
15 facilities necessary to assist the council in performing its  
16 duties.

17 Sec. 403.504. COUNCIL OPERATION. (a) A council member is  
18 not entitled to compensation for council service but is entitled to  
19 reimbursement for actual and necessary expenses incurred in  
20 performing council duties.

21 (b) The council may hold public meetings as necessary to  
22 fulfill its duties under this subchapter.

23 (c) The council is subject to Chapters 551 and 552.

24 Sec. 403.505. OPIOID ABATEMENT ACCOUNT. (a) The opioid  
25 abatement account is a dedicated account in the general revenue  
26 fund administered by the comptroller.

27 (b) The account is composed of:

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

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

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

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

14           (5) earnings on the principal of the account.

15           (c) Money in the account may be appropriated only to a state  
16 agency for the abatement of opioid-related harms.

17           (d) A state agency may use money appropriated from the  
18 account only to:

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

23           (2) support efforts to prevent or reduce deaths from  
24 opioid overdoses or other opioid-related harms, including through  
25 increasing the availability or distribution of naloxone or other  
26 opioid antagonists for use by health care providers, first  
27 responders, persons experiencing an opioid overdose, families,

1 schools, community-based service providers, social workers, or  
2 other members of the public;

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

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

17 (5) provide patients suffering from opioid dependence  
18 with access to all medications approved by the United States Food  
19 and Drug Administration for the treatment of opioid dependence and  
20 relapse prevention following opioid detoxification, including  
21 opioid agonists, partial agonists, and antagonists;

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

26 (7) support treatment alternatives that provide both  
27 psychosocial support and medication-assisted treatments in areas

1 with geographical or transportation-related challenges, including  
2 providing access to mobile health services and telemedicine,  
3 particularly in rural areas;

4 (8) address:

5 (A) the needs of persons involved with criminal  
6 justice; and

7 (B) rural county unattended deaths; or

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

10 (e) Section 404.071 does not apply to the account.

11 Sec. 403.506. OPIOID ABATEMENT TRUST FUND. (a) The opioid  
12 abatement trust fund is a trust fund established outside of the  
13 state treasury for the purposes of this subchapter that is  
14 administered by the trust company. The trust company may authorize  
15 money from the fund to be invested with money from the state  
16 treasury.

17 (b) The fund consists of:

18 (1) money obtained under a statewide opioid settlement  
19 agreement and deposited in the fund under Section 403.507; and

20 (2) interest, dividends, and other income of the fund.

21 (c) The trust company shall:

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

27 (2) allocate to the council an amount equal to 70

1 percent of the total amount of money obtained under a statewide  
2 opioid settlement agreement and distributed to the fund and the  
3 account under Section 403.507.

4 (d) The trust company shall distribute money allocated  
5 under Subsection (c)(2) at the direction of the council.

6 (e) The council shall provide to the trust company an annual  
7 forecast of money deposited and withdrawn from the fund and provide  
8 updates to the forecast as appropriate to ensure the trust company  
9 is able to achieve the council's directives.

10 (f) In investing money from the fund and subject to the  
11 council's direction, the trust company has the same investment  
12 authority with respect to the fund as the comptroller has under  
13 Sections 404.0241(a) and (c) with respect to the economic  
14 stabilization fund.

15 Sec. 403.507. DEPOSIT AND ALLOCATION OF SETTLEMENT MONEY;  
16 EFFECT OF BANKRUPTCY. (a) Money obtained under a statewide opioid  
17 settlement agreement must be deposited as provided by this section  
18 and further allocated in accordance with the settlement agreement.

19 (b) Of money obtained under a statewide opioid settlement  
20 agreement:

21 (1) 15 percent shall be deposited into the account;  
22 and

23 (2) 85 percent shall be deposited into the fund.

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

27 Sec. 403.508. COUNCIL ALLOCATION OF MONEY. (a) Of the

1 money allocated to the council under Section 403.506(c)(2), the  
2 council shall allocate:

3 (1) one percent to the comptroller for the  
4 administration of the council and this subchapter;

5 (2) 15 percent to hospital districts; and

6 (3) the remaining money based on the opioid abatement  
7 strategy developed by the council under Section 403.509.

8 (b) The comptroller may spend money from the fund for  
9 purposes of Subsection (a)(1). If the comptroller determines that  
10 the allocation under that subdivision exceeds the amount that is  
11 reasonable and necessary for the comptroller to administer the  
12 council and this subchapter, the comptroller may reallocate the  
13 excess money in accordance with Subsection (a)(3).

14 Sec. 403.509. COUNCIL POWERS AND DUTIES AND  
15 COUNCIL-APPROVED OPIOID ABATEMENT STRATEGY. (a) The council  
16 shall:

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

19 (A) an annual regional allocation methodology to  
20 distribute 75 percent of money distributed under Section  
21 403.508(a)(3) based on population health information and  
22 prevalence of opioid incidences as provided by law; and

23 (B) an annual targeted allocation to distribute  
24 25 percent of money distributed under Section 403.508(a)(3) for  
25 targeted interventions as identified by opioid incidence  
26 information;

27 (2) wholly or partly reallocate the targeted money

1 between regions if a region for which targeted money is allocated is  
2 unable to use all of the targeted money;

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

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

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

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

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

19 (c) To approve any decision or strategy, at least four of  
20 the members appointed under Section 403.503(b)(1) and four of the  
21 members appointed under Sections 403.503(b)(2)-(5) must approve  
22 the decision or strategy.

23 Sec. 403.510. REPORT. Not later than October 1 of each  
24 year, the council shall submit a written report to the legislature  
25 detailing all expenditures made by the council during the preceding  
26 state fiscal year.

27 Sec. 403.511. RULEMAKING. The council may adopt rules to

1 implement this subchapter.

2           SECTION 2. The individuals responsible for appointing the  
3 Texas opioid abatement fund council under Section 403.503,  
4 Government Code, as added by this Act, shall make all appointments  
5 under that section not later than the 60th day after the effective  
6 date of this Act.

7           SECTION 3. The comptroller of public accounts is required  
8 to implement a provision of this Act only if the legislature  
9 appropriates money specifically for that purpose. If the  
10 legislature does not appropriate money specifically for that  
11 purpose, the comptroller may, but is not required to, implement a  
12 provision of this Act using other appropriations available for that  
13 purpose.

14           SECTION 4. This Act takes effect immediately if it receives  
15 a vote of two-thirds of all the members elected to each house, as  
16 provided by Section 39, Article III, Texas Constitution. If this  
17 Act does not receive the vote necessary for immediate effect, this  
18 Act takes effect September 1, 2021.