

SUBJECT: Creating opioid abatement account and trust fund for funds from lawsuit

COMMITTEE: Appropriations — committee substitute recommended

VOTE: 23 ayes — Bonnen, M. González, Ashby, C. Bell, Capriglione, Dominguez, Gates, Holland, A. Johnson, Jarvis Johnson, Julie Johnson, Minjarez, Morrison, Rose, Schaefer, Sherman, Stucky, E. Thompson, Toth, VanDeaver, Walle, Wilson, Wu

0 nays

4 absent — Dean, Howard, Raney, Zwiener

SENATE VOTE: On final passage, April 28 — 31-0

WITNESSES: No public hearing.

BACKGROUND: Interested parties have suggested that the state should create a fund to collect and disburse funds received through opioid litigation judgments.

DIGEST: CSSB 1827 would provide for the allocation of money obtained under a statewide opioid settlement agreement. The bill would require that 15 percent of the money obtained under a statewide opioid settlement agreement be deposited into an opioid abatement account that could be appropriated to state agencies, and 85 percent into an opioid abatement trust fund. Some of the amount deposited to the trust fund would be distributed to cities and counties, and some to an opioid abatement fund council established by the bill to further distribute the funds.

Money obtained under a statewide opioid settlement agreement would have to be allocated in accordance with the settlement agreement, and the bill would establish rules for distributing and using the funds to regions experiencing opioid-related harms.

Opioid abatement fund council. CSSB 1827 would establish the Texas opioid abatement fund council to ensure that money recovered by Texas

through a statewide opioid settlement agreement was allocated fairly and spent to remediate the opioid crisis in Texas using efficient and cost-effective methods directed to the regions experiencing opioid-related harms

The council would be composed of the following 14 members:

- six regional members, appointed by the executive commissioner of the Health and Human Services Commission (HHSC), from academia or the medical profession with significant experience in opioid interventions and who each were appointed to represent one of the six groups of regional health care partnership regions listed in the bill.
- four members who were current or retired health care professionals holding or formerly holding a health profession license, with significant experience in treating opioid-related harms and who are appointed one each by the governor, the lieutenant governor, the House speaker, and the attorney general;
- one member employed by a hospital district and appointed by the governor;
- one member employed by a hospital district and appointed by the attorney general;
- one member appointed by the governor who is a member of a law enforcement agency with experience with opioid-related harms; and
- one nonvoting member who would serve as the presiding officer and was the comptroller or the comptroller's designee.

The HHSC executive commissioner would have to make appointments from a list of two qualified candidates provided by the governing bodies of counties and municipalities that:

- brought a civil action for an opioid-related harm against a released entity;
- released an opioid-related harm claim in a statewide opioid settlement agreement; and

- were located within the regions for which the member was being appointed.

The governor, lieutenant governor, House speaker, and attorney general would have to coordinate their appointments to ensure that the membership of the council reflected the ethnic and geographic diversity of the state.

The council would be administratively attached to the comptroller who would have to provide the staff and facilities to the council.

Appointments to the council would have to be made within 60 days of the bill's effective date.

Opioid abatement account. The bill would establish the opioid abatement account as a dedicated account in the general revenue fund administered by the comptroller.

The account would be composed of:

- money obtained from a statewide opioid settlement agreement and deposited in the account;
- money received by the state from any other source resulting from an action by the state against an opioid manufacturer or distributor, or another person in the opioid industry relating to the violation of a state or federal law on the manufacture, marketing, distribution, or sale of opioids, other than money distributed to a political subdivision under the terms of a settlement agreement or judgment; and
- money appropriated or transferred to the account by the Legislature; and
- gifts, grants, and earnings on the principal of the account.

Money in the account could be appropriated only to a state agency for the abatement of opioid-related harms. The bill would list approved uses by state agencies for money appropriated from the account, including

preventing opioid use disorder through evidence-based education and prevention and supporting efforts to prevent or reduce deaths from opioid overdoses or other opioid-related harms. Other uses would include training and treatment related to opioid addiction and addressing the needs of persons involved with criminal justice or rural county unattended deaths.

Government Code provisions requiring interest earned on money in accounts would not apply to the opioid abatement account.

Opioid abatement trust fund. CSSB 1827 would establish the opioid abatement trust fund outside of the treasury to be administered by a trust company. The fund would consist of money obtained under a statewide opioid settlement agreement and deposited in the fund and interest, dividends, and other income of the fund. The trust company could authorize money from the fund to be invested with money from the state treasury.

The trust company would be required to:

- distribute to counties and municipalities to address opioid-related harms in those communities 15 percent of the total amount of money obtained under a statewide opioid settlement agreement and distributed to the fund and the account; and
- allocate to the council 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.

The trust company would distribute money allocated to the council at the direction of the council. The council would have to give the trust company an annual forecast of money deposited and withdrawn from the fund and provide updates to the forecast. The trust company would have the certain authority relating to investing the money that the comptroller has for the Economic Stabilization Fund.

Allocation of settlement money. Money obtained under a statewide

opioid settlement agreement would have to be allocated in accordance with the settlement agreement. Of the money obtained under a statewide opioid settlement agreement, 15 percent would have to be deposited into the opioid abatement account and 85 percent into the opioid abatement trust fund.

The opioid abatement fund council would be required to allocate the money allocated to it as follows:

- 1 percent to the comptroller for administrative costs;
- 15 percent to hospital districts; and
- the remaining money based on the opioid abatement strategy developed by the council under the bill.

For the purposes of a statewide opioid settlement agreement in relation to a bankruptcy plan for a released entity, money would have to be distributed according to the bankruptcy plan.

Opioid abatement fund council duties. The council would be required to determine and approve evidence-based opioid abatement strategies. The strategies would have to include an annual regional allocation methodology to distribute 75 percent of money based on population health information and prevalence of opioid incidences and an annual targeted allocation to distribute 25 percent of money for targeted interventions as identified by opioid incidence information.

It also would be required to:

- reallocate the targeted money between regions if a region was unable to use all of the targeted money;
- develop an application and award process for funding;
- award grants and funding allocations;
- monitor grant agreements; and
- determine the percentage of money that could be used to develop certain education and outreach programs.

The bill would require that to approve any decision or strategy, at least four of the six members appointed from regional health care partnerships regions and at least four members appointed under other categories would have to approve.

The council could hold public meetings and would be subject to the state's open meetings and public information laws. Council members would not be entitled to compensation for council service but would be entitled to reimbursement for expenses.

Other provisions. By October 1 of each year, the council would have to report to the Legislature detailing all expenditures made by the council the preceding year.

The attorney general and comptroller would have to maintain a copy of a statewide opioid settlement agreement and make the copy available on their websites.

The comptroller would have to implement a provision of the bill only if the Legislature appropriated money for that purpose but could implement provisions using other appropriations available for that purpose.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.

NOTES:

The House companion bill, HB 4284 by Holland, was considered by the House Appropriations Committee in a public hearing on May 4 and left pending.