

By: Senator(s) Boyd

To: Judiciary, Division A

SENATE BILL NO. 2767
(As Sent to Governor)

1 AN ACT TO CREATE THE MISSISSIPPI OPIOID SETTLEMENT FUND
2 ADVISORY COUNCIL; TO DEFINE TERMS; TO PROVIDE FOR ITS MEMBERSHIP,
3 DUTIES AND RESPONSIBILITIES; TO PROVIDE FOR AN ANNUAL REPORT TO
4 THE LEGISLATURE AND THE GOVERNOR; TO AMEND SECTION 27-103-305,
5 MISSISSIPPI CODE OF 1972, TO EXPAND THE LIST OF MANUFACTURERS AND
6 PHARMACY CHAINS WHOM THE ATTORNEY GENERAL MAY RECEIVE MONIES FROM
7 DUE TO OPIOID LITIGATION SETTLEMENTS ENTERED INTO BY THE ATTORNEY
8 GENERAL ON BEHALF OF THE STATE; TO PROVIDE THAT THE ATTORNEY
9 GENERAL SHALL DEPOSIT SETTLEMENT MONIES RECEIVED INTO THE OPIOID
10 SETTLEMENT FUND; TO PROVIDE THAT ABATEMENT SETTLEMENT FUNDS SHALL
11 BE DISBURSED UPON APPROPRIATIONS BY THE LEGISLATURE AND IN
12 COMPLIANCE WITH SECTION 1 OF THIS ACT; TO PROVIDE THAT THE
13 ATTORNEY GENERAL WILL OVERSEE THE EXPENDITURE OF ABATEMENT FUNDS
14 TO ENSURE COMPLIANCE WITH THE OPIOID SETTLEMENTS; TO PROVIDE THAT
15 NONABATEMENT FUNDS SHALL BE DISBURSED UPON APPROPRIATIONS BY THE
16 LEGISLATURE WITHOUT RECOMMENDATIONS FROM THE COUNCIL; TO PROVIDE
17 THAT THE ATTORNEY GENERAL SHALL HAVE ULTIMATE OVERSIGHT AUTHORITY
18 OVER THE EXPENDITURE OF NONABATEMENT FUNDS TO ENSURE NO MORE THAN
19 30% OF NONABATEMENT MONIES ARE EXPENDED FROM THE SETTLEMENT FUNDS;
20 AND FOR RELATED PURPOSES.

21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

22 **SECTION 1.** (1) As used in this act, Section 27-103-305 and
23 Section 3 of this act, the following terms shall have the meanings
24 as defined in this subsection unless the context clearly requires
25 otherwise:

26 (a) "Council" means the Mississippi Opioid Settlement
27 Fund Advisory Council created in subsection (2) of this section.



28 (b) "Opioid settlements" means the current and future
29 settlements of opioid litigation with distributors Cardinal
30 Health, McKesson and AmerisourceBergen, manufacturers Purdue
31 Pharma, Inc., Janssen Pharmaceuticals/Johnson & Johnson, Allergan
32 and Teva, and pharmacy chains CVS, Walgreens, Walmart, and Kroger,
33 and other defendants of related opioid litigation.

34 (c) "Abatement settlement funds" means those monies
35 from the opioid settlements that are required to be spent on
36 opioid abatement programs, goods and services.

37 (d) "Nonabatement settlement funds" means those monies
38 from the opioid settlements that are not required to be spent on
39 opioid abatement programs, goods and services.

40 (2) There is created the Mississippi Opioid Settlement Fund
41 Advisory Council to ensure that monies received and deposited into
42 the Opioid Settlement Fund are allocated and spent in accordance
43 with the terms of the opioid settlements, except as otherwise
44 authorized in Section 27-103-305(4), and to ensure public
45 involvement, accountability and transparency in allocating and
46 accounting for the monies in the fund.

47 (3) The purpose of the council is to review applications for
48 grants funded by the proceeds of opioid settlements and to make
49 recommendations to the Legislature for the appropriation of such
50 proceeds to fund the grants.

51 (4) The Legislature may accept or reject each of the
52 council's grant recipient recommendations, but shall not otherwise



53 amend or modify the recommended list of grant recipients or the
54 amounts recommended for the recipients. The council shall not
55 exclude any qualified applicant from the list provided to the
56 Legislature under subsection (11) of this section.

57 (5) The council shall consist of the following voting
58 members:

59 (a) The Attorney General or a designee, who shall serve
60 as chair of the council;

61 (b) The State Health Officer or a designee, who shall
62 serve as co-vice chair of the council;

63 (c) The Executive Director of the State Department of
64 Mental Health or a designee, who shall serve as co-vice chair of
65 the council;

66 (d) Two (2) members appointed by the Governor;

67 (e) Two (2) members appointed by the Lieutenant
68 Governor who are not members of the Legislature;

69 (f) Two (2) members appointed by the Speaker of the
70 House of Representatives who are not members of the Legislature;

71 (g) A member appointed by the Chief Justice of the
72 Mississippi Supreme Court;

73 (h) A member to be appointed by the State
74 Superintendent of Public Education;

75 (i) A member of the Mississippi Municipal League to be
76 appointed by the President of the League;



(j) A member of the Mississippi Association of Supervisors to be appointed by the President of the Association;

(k) A member of the Mississippi Association of Chiefs of Police to be appointed by the President of the Association; and

(l) A member of the Mississippi Sheriffs' Association to be appointed by the President of the Association.

(6) The following shall be nonvoting, advisory members of the council:

(a) A member of the Mississippi Prosecutors Association to be appointed by the President of the Association;

(b) A member of the Office of State Public Defender appointed by the State Public Defender;

(c) Three (3) judges with experience related to opioid substance abuse and intervention to be appointed by the Chief Justice of the Mississippi Supreme Court;

(d) A member representing the Mississippi Division of Medicaid to be appointed by the Executive Director of the Division;

(e) A member representing the Mississippi Department of Human Services to be appointed by the Executive Director of the Department;

(f) A member to be appointed by the Commissioner of the Department of Public Safety;

(g) A member to be appointed by the Commissioner of Child Protection Services;



102 (h) A member of the Mississippi State Medical
103 Association to be appointed by the President of the Association;
104 (i) A member of the Mississippi Society of Addiction
105 Medicine to be appointed by the President of the Society;
106 (j) A member representing the Community Mental Health
107 Centers to be appointed by the Executive Director of the State
108 Department of Mental Health;
109 (k) A member representing the Community Health Centers
110 to be appointed by the State Health Officer;
111 (l) A member representing private sector substance
112 abuse treatment facilities to be appointed by the State Health
113 Officer;
114 (m) A member representing a peer support recovery
115 specialist organization to be appointed by the Executive Director
116 of the State Department of Mental Health;
117 (n) The Medical Director of the State Department of
118 Mental Health or a designee;
119 (o) A member from the State Intervention Courts
120 Advisory Committee to be appointed by the Chief Justice of the
121 Mississippi Supreme Court;
122 (p) A member representing the Mississippi Ambulance
123 Alliance to be appointed by the Board of the Alliance;
124 (q) Two (2) members of the Senate to be appointed by
125 the Lieutenant Governor; and



(r) Two (2) members of the House to be appointed by the Speaker of the House.

(7) Voting members may request to add additional nonvoting, advisory members with expertise in opioid prevention, treatment and recovery. Such members may be added by a majority vote of the voting members.

(8) (a) Members of the council pursuant to subsection (5)(a) through (c) shall serve permanently during their tenure in their respective offices.

(b) Members appointed pursuant to subsection (5)(d) through (f) of this section shall serve an initial term ending on December 31, 2027. After the expiration of the initial term, each such appointment shall be for a term of four (4) years from the expiration date of the previous term.

(c) All other members of the council shall serve for a three-year term.

(d) The respective appointing authority may remove a member for failure to attend at least one-half (1/2) of the scheduled meetings in any one-year period or for other good cause.

(e) If a vacancy on the council occurs, the respective appointing authority shall fill the vacancy for the remainder of the unexpired term. Notwithstanding the expiration of a member's term, each member shall serve until a successor is duly appointed.

(f) Members of the council shall be appointed within sixty (60) days after effective date of this act. The chair of



the council shall call the first meeting of the council no later than ninety (90) days after the effective date of this act.

(g) A majority of the voting members of the council shall constitute a quorum.

(9) Members of the council shall serve without compensation but may be reimbursed for actual and necessary expenses incurred in the performance of their duties, in accordance with Section 25-3-41. All such expenses shall be paid from the Opioid Settlement Fund and not from the State General Fund.

(10) The council shall be housed within the Office of the Attorney General. The Attorney General shall provide the staff and facilities necessary to assist the council in the performance of its duties.

(11) The council shall:

(a) Prepare and publish a list of priorities to guide the selection of grant recipients at its first meeting of each calendar year;

(b) Develop and publish criteria and procedures for the submission of grant applications for funds derived from opioid settlements;

(c) Review and evaluate applications based on established criteria to determine the most effective and impactful use of funds in addressing opioid-related issues, including prevention, treatment and recovery efforts;



(d) Ensure that all applications are reviewed and evaluated for compliance with the terms of the opioid settlement agreements;

(e) Prepare a prioritized list of recommended grant recipients, which includes a description of how each recommended recipient complies with the council's published priorities; and

(f) Upon approval of the total list of recommended grant recipients by the council, the list of recommended grant recipients shall be submitted to the Lieutenant Governor, Speaker of the House, Chairs of the Senate and House Appropriations Committees, Chairs of the Senate Public Health and Welfare and House Public Health and Human Services Committees, and Chairs of the Senate and House Judiciary A Committees no later than thirty (30) days before the first day of the Regular Legislative Session.

(12) The council shall not exclude any qualified applicant from the list provided to the Legislature under subsection (11) of this section.

(13) The council shall ensure that all funds appropriated comply with the terms and conditions of the respective settlement agreements and state laws governing the use of such funds, except as otherwise authorized in Section 27-103-305(4).

(14) The council shall adopt necessary rules, regulations and procedures to effectuate the purposes of this act and to ensure that a grant applicant expends all grant funds in a manner consistent with the terms of the opioid settlement agreements.



(15) The council shall terminate when all opioid settlement funds being paid pursuant to the opioid settlements have been received and disbursed, unless the Attorney General certifies that additional funds are anticipated within one (1) year.

(16) (a) By December 1 of each year, the council shall submit an annual report to the Legislature and the Governor summarizing the distribution of funds, outcomes of funded programs, and any recommendations for improving the process of appropriation and administration of settlement funds.

(b) The report shall be made publicly available on the Attorney General's website.

SECTION 2. Section 27-103-305, Mississippi Code of 1972, is amended as follows:

27-103-305. (1) There is created in the State Treasury a special fund to be known as the Opioid Settlement Fund. The fund shall consist of the monies received by the Attorney General on behalf of the State of Mississippi from settlements of opioid litigation with distributors Cardinal Health, McKesson and AmerisourceBergen, manufacturers Purdue Pharma, Inc., Janssen Pharmaceuticals/Johnson & Johnson, Allergan and Teva, and pharmacy chains CVS, Walgreens * * *and, Walmart, * * * which are deposited into the fund by and Kroger, and other defendants of related opioid litigation. The Attorney General shall deposit all of such monies into the fund after attorney fees and expenses have been paid.



225 (2) * * * ~~Monies in the fund~~ Abatement settlement funds
226 shall be * * * ~~expended~~ disbursed upon appropriation by the
227 Legislature in accordance with the requirements of * * * ~~the~~
228 ~~opioid litigation settlements described in subsection (1)~~ Section
229 1 of this * * * section act.

230 (3) For abatement settlement funds, the Attorney General
231 shall oversee the expenditure of such monies to ensure compliance
232 with the opioid settlements.

233 (4) Nonabatement settlement funds shall be disbursed upon
234 appropriation by the Legislature without any recommendations by
235 the council regarding the use of those monies.

236 (* * * ~~35~~) Unexpended amounts remaining in the fund at the
237 end of a fiscal year shall not lapse into the State General Fund,
238 and any interest earned or investment earnings on amounts in the
239 fund shall be deposited into such fund.

240 **SECTION 3.** For nonabatement settlement funds, the Attorney
241 General shall have ultimate oversight authority to ensure that no
242 more than thirty percent (30%) of the settlement monies are
243 expended for nonabatement.

244 **SECTION 4.** This act shall take effect and be in force from
245 and after its passage.

