



January 30, 2023

HOUSE BILL No. 1208

DIGEST OF HB 1208 (Updated January 25, 2023 4:05 pm - DI 125)

Citations Affected: IC 4-6; IC 4-12.

Synopsis: Opioid settlement. Specifies that the distribution of funds from an opioid litigation settlement is subject to a bankruptcy court order or bankruptcy settlement. Provides that an annual distribution of less than \$5,000 payable to a city or town pursuant to an opioid litigation settlement agreement must be paid instead to the county. (Under current law, the threshold is \$1,000.) Specifies that amounts owed by the state for attorney's fees and costs incurred in connection with opioid litigation must be deducted from the opioid settlement distribution payable to the state. Permits a city, county, or town that receives an opioid litigation settlement payment to transfer all or part of the payment to another city, county, or town to be used for the benefit of both communities. Permits a city, county, or town that receives an opioid litigation distribution to sell the right to receive the distribution. Excludes from the agency settlement fund any amount owed for outside counsel attorney's fees, costs, or expenses.

Effective: July 1, 2023.

**Karickhoff, Steuerwald, Jeter,
GiaQuinta**

January 10, 2023, read first time and referred to Committee on Ways and Means.
January 30, 2023, amended, reported — Do Pass.

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January 30, 2023

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

HOUSE BILL No. 1208

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-6-15-4, AS AMENDED BY P.L.72-2022,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2023]: Sec. 4. (a) **Except as provided by any bankruptcy**
4 **court order or bankruptcy settlement**, funds received from opioid
5 litigation settlements that resolve existing state and political
6 subdivision litigation lawsuits as of January 1, 2021, shall be
7 distributed in the following manner:
8 (1) Fifteen percent (15%) to the agency settlement fund
9 established by IC 4-12-16-2 for the benefit of the state.
10 (2) Fifteen percent (15%) to the agency settlement fund
11 established by IC 4-12-16-2 for distribution to cities, counties,
12 and towns according to a weighted distribution formula identified
13 in settlement documents that accounts for opioid impacts in
14 communities.
15 (3) Thirty-five percent (35%) to the agency settlement fund
16 established by IC 4-12-16-2 to be used for statewide treatment,
17 education, and prevention programs for opioid use disorder and

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1 any co-occurring substance use disorder or mental health issues
 2 as defined or required by the settlement documents or court order.
 3 (4) Thirty-five percent (35%) to the agency settlement fund
 4 established by IC 4-12-16-2 for distribution to cities, counties,
 5 and towns according to a weighted distribution formula identified
 6 in settlement documents that accounts for opioid impacts in
 7 communities. However, if a city's or town's annual distribution
 8 under this subdivision is:

9 **(A) for a distribution made before July 1, 2023, less than**
 10 **one thousand dollars (\$1,000); or**

11 **(B) for a distribution made after June 30, 2023, less than**
 12 **five thousand dollars (\$5,000);**

13 the city's or town's annual distribution must instead be distributed
 14 to the county in which the city or town is located. Distributions
 15 under this subdivision may be used only for programs of
 16 treatment, prevention, and care that are best practices as defined
 17 or required by the settlement documents or court order.

18 **(b) Any attorney's fees or costs required to be paid by the state,**
 19 **including any amount in a settlement designated for payment of**
 20 **state attorney's fees or costs, shall be deducted from the**
 21 **distribution described in subsection (a)(1), even if the funds have**
 22 **not been deposited in the agency settlement fund.**

23 ~~(b)~~ **(c)** The amounts distributed to the agency settlement fund under
 24 subsection (a)(2) and (a)(4) are annually appropriated to the office of
 25 the attorney general to make the distributions described under
 26 subsection (a)(2) and (a)(4).

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

34 ~~(d)~~ **(e)** The amount distributed to the agency settlement fund under
 35 subsection (a)(3) is annually appropriated to the office of the secretary
 36 of family and social services for treatment, education, and prevention
 37 programs for opioid use disorder and any co-occurring substance use
 38 disorder or mental health issues as defined or required by the
 39 settlement documents or court order. Before the thirty-five percent
 40 (35%) of the funds received under this subsection may be distributed,
 41 the office of the secretary of family and social services shall submit a
 42 distribution plan to the budget committee for review.



1 ~~(e)~~ **(f)** All entities receiving settlement funds to be used for
 2 treatment, education, and prevention programs for opioid use disorder
 3 and any co-occurring substance use disorder or mental health issues
 4 shall monitor the use of those funds and provide an annual report to the
 5 office of the secretary of family and social services not later than a date
 6 determined by the office of the secretary of family and social services.

7 ~~(f)~~ **(g)** The office of the secretary of family and social services shall
 8 compile and submit an annual comprehensive report of the information
 9 received under subsection ~~(e)~~ **(f)** to the general assembly in an
 10 electronic format under IC 5-14-6 not later than October 1 of each year
 11 identifying all funds committed and used as specified by any settlement
 12 documents or court order.

13 **(h) Any city, county, or town receiving a distribution under**
 14 **subsection (a)(2) or (a)(4) may transfer all or part of its**
 15 **distribution to another city, county, or town to be used for the**
 16 **benefit of both communities.**

17 **(i) Upon a majority vote of the legislative body, a city, county,**
 18 **or town receiving a distribution under subsection (a)(2) or (a)(4)**
 19 **may sell for cash or other consideration the right to receive the**
 20 **distribution. However, the proceeds from the sale of a distribution**
 21 **received under subsection (a)(2) must be used for the purposes**
 22 **allowed for a distribution under subsection (a)(2), and the proceeds**
 23 **from the sale of a distribution received under subsection (a)(4)**
 24 **must be used for the purposes allowed for a distribution under**
 25 **subsection (a)(4). A city, county, or town may pledge, grant a lien**
 26 **on, or grant a security interest in a distribution to effectuate a sale**
 27 **under this subsection. The legislative body's approval of the sale is**
 28 **conclusive as to the adequacy of the consideration for the sale.**

29 SECTION 2. IC 4-12-16-3, AS AMENDED BY P.L.141-2021,
 30 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2023]: Sec. 3. (a) The fund consists of:

32 (1) except as provided in subsections (b) and (c), all funds
 33 received by the state, **less any amount owed for outside counsel**
 34 **attorney's fees, costs, or expenses**, under:

35 (A) multistate and Indiana specific settlements;

36 (B) assurances of voluntary compliance accepted by the
 37 attorney general; and

38 (C) any other form of agreement that:

39 (i) is enforceable by a court; and

40 (ii) settles litigation between the state and another party; and

41 (2) all money recovered as court costs or costs related to
 42 litigation.



- 1 (b) Any amount of restitution that is:
2 (1) awarded to an individual or institution under a settlement or
3 assurance of voluntary compliance;
4 (2) unclaimed by an individual or institution;
5 (3) received by a state agency; and
6 (4) determined to be abandoned property under IC 32-34-1.5;
7 must be deposited in the abandoned property fund under
8 IC 32-34-1.5-42.
- 9 (c) The fund does not include the following:
10 (1) Funds received by the state department of revenue.
11 (2) Funds required to be deposited in the securities division
12 enforcement account (IC 23-19-6-1).
13 (3) Funds received as the result of a civil forfeiture under
14 IC 34-24-1.
15 (4) Funds received as a civil penalty or as part of an enforcement
16 or collection action by an agency authorized to impose a civil
17 penalty or engage in an enforcement or collection action, if the
18 funds are required to be deposited in the general fund or another
19 fund by statute.
20 (5) Funds recovered by the Medicaid fraud control unit in actions
21 to recover money inappropriately paid out of or obtained from the
22 state Medicaid program.
23 (6) Amounts required to be paid as consumer restitution or
24 refunds in settlements specified in this chapter.
25 (7) Amounts received under the Master Settlement Agreement (as
26 defined in IC 24-3-3-6).



COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1208, 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:

Page 1, line 4, after "order or" insert "**bankruptcy**".

Page 2, line 18, after "paid" delete "to" and insert "**by**".

Page 3, line 20, delete "distribution, if the proceeds of the sale are used exclusively for the" and insert "**distribution. However, the proceeds from the sale of a distribution received under subsection (a)(2) must be used for the purposes allowed for a distribution under subsection (a)(2), and the proceeds from the sale of a distribution received under subsection (a)(4) must be used for the purposes allowed for a distribution under subsection (a)(4).**".

Page 3, delete line 21.

Page 3, line 22, delete "(a)(4).".

and when so amended that said bill do pass.

(Reference is to HB 1208 as introduced.)

THOMPSON

Committee Vote: yeas 21, nays 0.

