HB4138 FULLPCS1 Kevin Wallace-JM
5/12/2020 8:28:07 am

COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB4138 _____
Of the printed Bill

Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Kevin Wallace

Adopted: _____

_____
Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

PROPOSED
COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 4138

By: Wallace and Hilbert of the House

and

Thompson and Rader of the Senate

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to opioid abatement; creating the Political Subdivisions Opioid Abatement Grants Act; declaring legislative intent; defining terms; creating the Oklahoma Opioid Abatement Revolving Fund; establishing fund parameters; requiring segregation of certain funds; creating the Oklahoma Opioid Abatement Board; establishing size of Board; providing appointment authority; providing for certain ex officio membership; limiting ex officio voting authority; limiting certain actions by Board members under certain conditions; establishing powers and duties; providing for opioid grant awards; limiting utilization of grant awards; requiring grant utilization and expenditures be memorialized and submitted to the Board; placing limitations on the utilization of certain funds; requiring staff and administrative support be provided by certain agency; authorizing the promulgation of rules with certain limitations; providing methodology and criteria for allocation of certain opioid grant awards; authorizing opioid grant awards from remaining funds; limiting utilization of grant awards; providing for reallocation of opioid grant awards under certain conditions; and providing for codification.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 30.3 of Title 74, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Political Subdivisions Opioid Abatement Grants Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 30.4 of Title 74, unless there is created a duplication in numbering, reads as follows:

It is the intent of the Legislature, through enactment of the Political Subdivisions Opioid Abatement Grants Act, to promote and protect the health of Oklahomans by using monetary grants to abate the opioid crisis in a comprehensive manner that includes cooperation and collaboration with political subdivisions.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 30.5 of Title 74, unless there is created a duplication in numbering, reads as follows:

As used in the Political Subdivisions Opioid Abatement Grants Act:

1. "Approved purpose" and "approved purposes" mean evidence-based, forward-looking strategies, programming and services used to:

a. expand the availability of treatment for individuals affected by opioid use disorders, co-occurring substance use disorders and mental health issues,

b. develop, promote and provide evidence-based opioid use prevention strategies,

c. provide opioid use disorder and co-occurring substance use disorder avoidance and awareness education,

d. decrease the oversupply of licit and illicit opioids,

e. support recovery from addiction services performed by qualified and appropriately licensed providers,

f. treat opioid use, abuse and disorders, including early intervention screening, counseling and support,

g. support individuals in treatment and recovery from opioid use, abuse and disorder,

h. provide programs or services to connect individuals with opioid use, abuse or disorder, or who are at risk of developing opioid use disorder, co-occurring substance use disorder and mental health issues, with treatment and counseling programs and services,

i. address the needs of individuals who are involved, or who are at risk of becoming involved, in the criminal justice system due to opioid use, abuse or disorder through programs or services in municipal and county criminal judicial systems, including prearrest and postarrest diversion programs, pretrial services and drug or recovery courts,

j. address the needs of pregnant or parenting women with opioid use, abuse or disorder and their families, including babies with neonatal abstinence syndrome,

k. support efforts to prevent overprescribing and ensure appropriate prescribing and dispensing of opioids,

l. support efforts to discourage or prevent misuse of opioids, including the oversupply of licit and illicit opioids,

m. support efforts to prevent or reduce overdose deaths or other opioid-related harms, including through increased availability and distribution of naloxone and other drugs that treat overdoses for use by first responders, persons who have experienced an overdose event, families, schools, community-based service providers, social workers and other members of the public,

n. reimburse or fund law enforcement and emergency responder expenditures relating to the opioid epidemic, including costs of responding to emergency medical or police calls for service, equipment, treatment or response alternatives, and training for law enforcement and emergency responders as to appropriate practices and precautions when dealing

with opioids or individuals who are at risk of opioid overdose or death,

o. support efforts to provide leadership, planning and coordination to abate the opioid epidemic through activities, programs or strategies for prevention and recovery models, including regional intergovernmental efforts and not-for-profit agency support,

p. support education of youths regarding the dangers of opioid use, abuse and addiction,

q. fund training relative to any approved purpose,

r. monitor, surveil and evaluate opioid use, abuse or disorder, or

s. provide opioid abatement as identified by the Oklahoma Opioid Abatement Board as consistent with the purpose of this act.

Provided that such strategies, programming and services occurred on or after January 1, 2006;

2. "Board" means the Oklahoma Opioid Abatement Board;

3. "Eligible participant" means any political subdivision or first responder organization that obtained legal representation or participated in litigation with pharmaceutical supply chain participants prior to the effective date of this act;

4. "First responder organization" means a nonprofit organization formed and in good standing under 501(c)(9) of the

Internal Revenue Code, whose primary function is to benefit public safety employees;

5. "Nonapproved purpose" and "nonapproved purposes" mean strategies, programming and services not falling within the definition of "approved purpose" or "approved purposes" as defined in this act;

6. "Opioid funds" means all monetary amounts obtained through a settlement or judgment by the Attorney General on behalf of the State of Oklahoma related to opioid litigation involving pharmaceutical supply chain participants, including the Purdue Political Subdivisions Fund but excluding all other funds received pursuant to the Purdue Settlement Agreement;

7. "Opioid grant awards" means grants funded from the Oklahoma Opioid Abatement Revolving Fund, awarded pursuant to the provisions of this act;

8. "Pharmaceutical supply chain" means the process and channels through which controlled substances are manufactured, marketed, promoted, distributed or dispensed;

9. "Pharmaceutical supply chain participant" means any entity that engages in or has engaged in the manufacture, marketing, promotion, distribution or dispensing of an opioid analgesic;

10. "Political subdivision" and "political subdivisions" have the same meaning as provided in subparagraphs a, b, c and d of paragraph 11 of Section 152 of Title 51 of the Oklahoma Statutes;

11. "Purdue Political Subdivision Fund" means the Twelve Million Five Hundred Thousand Dollars ($12,500,000.00) plus any interest accrued thereon received from the Revive Oklahoma Health Foundation consisting of funds from the Purdue Settlement Agreement designed for distribution to political subdivisions which have executed a release of legal claims as required by the Purdue Settlement Agreement; and

12. "Purdue Settlement Agreement" means the settlement agreement entered into by the State of Oklahoma and Purdue Pharma L.P., Purdue Pharma, Inc. and the Purdue Frederick Company on March 26, 2019, and approved by the Court on April 2, 2019.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 30.6 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created in the State Treasury a revolving fund for the Office of the Attorney General to be designated the "Oklahoma Opioid Abatement Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all opioid funds obtained through a settlement or judgment by the Attorney General on behalf of the State of Oklahoma related to opioid litigation involving pharmaceutical supply chain participants:

1. Designated for deposit in the fund; or

2. Appropriated to the fund by the Legislature.

B. Provided that the Purdue Political Subdivisions Fund shall be maintained in a segregated State Treasury fund within the Oklahoma Opioid Abatement Revolving Fund, and that the Purdue Political Subdivisions Fund shall not be commingled with other opioid funds deposited in or appropriated to the Oklahoma Opioid Abatement Revolving Fund.

C. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Attorney General for the purpose of funding opioid grant awards as authorized by this act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 30.7 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Oklahoma Opioid Abatement Board which shall consist of the following nine (9) members:

1. One member appointed by the Governor;

2. One member appointed by the State Auditor and Inspector;

3. One member appointed by the State Treasurer;

4. The Attorney General of the State of Oklahoma, or his or her designee, who shall serve as an ex officio member of the Board but who shall be entitled to vote only in case of a tie vote;

5. One member appointed by the State Superintendent of Public Instruction;

6. Two members appointed by the Speaker of the House of Representatives; and

7. Two members appointed by the President Pro Tempore of the Senate.

B. Each member shall serve at the pleasure of his or her appointing authority and may be removed or replaced without cause. Any member of the Board shall be prohibited from voting on any issue in which the member has a direct or indirect financial interest.

C. The Board shall have the following powers and duties:

1. Develop and implement procedures for the disbursement of opioid grant awards to eligible participants, to be used by eligible participants to fund and reimburse costs related to approved purposes. The Board may elect to disburse opioid grant awards to eligible participants in multiple allocations;

2. Develop and implement opioid grant application, submission and evaluation procedures as required to implement the provisions of this act;

3. Develop and implement an appeals process for eligible participants to contest opioid grant application denials and denials of specific fund use requests contained in submitted applications;

4. Maintain oversight over the expenditure of opioid grant awards to ensure grant proceeds are used exclusively for approved purposes; and

5. Suspend allocations of opioid grant awards to eligible participants found by the Board to be out of compliance with Board procedures or to have utilized such awards for nonapproved purposes; provided that the Board shall resume such allocations once the Board has determined the eligible participant has adequately remedied the cause of such suspension.

D. No opioid grant awarded pursuant to the provisions of this act shall be utilized or expended by a political subdivision, unless such utilization or expenditure is memorialized in a resolution or equivalent government action adopted by the political subdivision and submitted to the Board.

E. No opioid grant awarded pursuant to the provisions of this act shall include funds from the Purdue Political Subdivisions Fund unless the Board shall have first received a release of claims as required by the Purdue Settlement Agreement on a form approved by the Attorney General.

F. The Office of the Attorney General shall provide staff and administrative support to the Oklahoma Opioid Abatement Board.

G. The Office of the Attorney General shall promulgate rules necessary to implement the provisions of this act; provided that the Office of the Attorney General shall only promulgate such rules as requested or approved by the Board.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 30.8 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. 1. The Board shall conduct an initial disbursement of opioid grant awards to participating eligible participants. Such opioid grant awards shall be allocated amongst the different participating eligible participants based on the following criteria, giving equal weight to each criteria:

a. the number of people per capita suffering from opioid use disorder in the participating political subdivision, or in the absence of such information, the opioid prescription rate in the political subdivision compared to the national average opioid prescription rate,

b. the number of opioid overdose deaths in the participating political subdivision, and

c. the amount of opioids distributed within the participating political subdivision.

2. Grant awards shall be subject to legal services agreements entered into by participating eligible participants based on the grant awards.

3. Initial opioid grant awards as provided for in this subsection shall be listed in an opioid grant award allocation

matrix reviewed and approved by the Board to ensure that such awards adhere to the criteria as provided in this subsection.

B. Following the awarding of opioid grant awards pursuant to subsection A of this section, any remaining unencumbered balance in the Oklahoma Opioid Abatement Revolving Fund shall be available to the Board to award as grants to eligible participants; provided such awards shall only be utilized by eligible participants for approved purposes.

C. In the event an eligible participant merges, dissolves or ceases to exist, any remaining allocations of an awarded opioid grant award in excess of Five Hundred Dollars ($500.00) shall be reallocated equitably based on the composition of the successor eligible participant or the successor eligible participants.

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