



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.

Bill Number:	H. 5182	Signed by Governor on May 23, 2022
Author:	Lucas	
Subject:	Opioid Recovery Act	
Requestor:	House of Representatives	
RFA Analyst(s):	Tipton and Gardner	
Impact Date:	June 21, 2022	

Fiscal Impact Summary

This bill establishes the South Carolina Opioid Recovery Act for the purposes of administering opioid-related settlements entered into by the State and its political subdivisions. Funds from these settlements will be used under the provisions of this bill for the promotion and implementation of abatement strategies to remediate opioid related issues in the state. This bill creates the South Carolina Opioid Recovery Fund and subfunds, the Opioid Recovery Fund Board to administer and distribute these funds and prevents future claims by state or local governments against companies that have already entered into opioid-related settlements with the state.

This bill will increase expenses for the State Fiscal Accountability Authority (SFAA) by approximately \$376,000 beginning in FY 2022-23 for administrative responsibilities related to the Opioid Recovery Fund Board. SFAA is authorized by the bill to receive reimbursement from the Administrative Subfund of the Opioid Recovery Fund to cover costs incurred by the administration of the board. Under the provisions of the bill, up to 2 percent of settlement funds received by the state may be allocated to the Administrative Subfund. If board related administrative expenses are in excess of 2 percent of the Opioid Recovery Fund in a given fiscal year, SFAA may request additional General Funds to cover the difference. For reference, 2 percent of the Opioid Recovery Fund in FY 2022-23 will total approximately \$1,273,000, based on information provided by the Office of Attorney General. However, as future settlement amounts are unknown, this bill's impact on SFAA General Fund expenditures is undetermined.

This bill will increase General Fund expenditures for the Office of Attorney General by \$96,000 beginning in FY 2022-23 for 1.0 FTE that would be required to comply with the requirements of the bill.

The fiscal impact of this bill on the Office of Inspector General (OIG) is undetermined. If the intent is to extend the current authority of the OIG to investigate political subdivisions that receive distributions from the funds the bill may increase expenses to address these additional responsibilities.

This bill will have no impact on the State Treasurer's Office (STO), Office of State Auditor (OSA), Judicial Department (Judicial), or the Department of Health and Environmental Control

(DHEC) as the bill's requirements of these agencies can be managed under normal business operations.

Based on information provided by the Office of Attorney General, the Opioid Recovery Fund will receive approximately \$63,662,000 of settlement payments in FY 2022-23. These funds will be expended at the discretion of the board and pursuant to the provisions of this bill. Revenue in subsequent years is contingent upon settlement payout schedules and will vary.

Explanation of Fiscal Impact

Signed by Governor on May 23, 2022

State Expenditure

This bill establishes the Opioid Recovery Act for the purposes of implementing necessary terms for opioid-related settlements entered into by the State and its political subdivisions. Funds from these settlements will be used under the provisions of this bill for the promotion and implementation of abatement strategies to remediate opioid related issues in the state. This bill creates the Opioid Recovery Fund and subfunds, the Opioid Recovery Fund Board to administer and distribute these funds and prevents future claims by state or local governments against companies that have already entered into opioid-related settlements with the State.

State Fiscal Accountability Authority. The South Carolina Opioid Recovery Board is established by this bill under review of SFAA as a quasi-governmental agency responsible for the management of the Opioid Recovery Fund. The board will be comprised of the following nine members:

- One member appointed by the Governor who will serve as Chairperson,
- One member appointed by the President of the Senate,
- One member appointed by the Speaker of the House of Representatives,
- Five members from a list provided by the South Carolina Association of Counties, three appointed by the Governor, one appointed by the President of the Senate, and one appointed by the Speaker of the House of Representatives, who must include one member from each public health region as defined by DHEC, and
- One member appointed by the Governor from a list provided by the South Carolina Municipal Association.

This bill requires all members of the board to be academic, medical, licensed health, or other professionals with significant experience in opioid prevention, treatment, or intervention. The bill specifies that members of the board may not be compensated beyond normal mileage, subsistence, and per diem, as well as reimbursements for actual and necessary expenses. Under standards set by the Comptroller General, the board is required to establish reimbursement standards for travel and other expenses to be paid from the Administrative Subfund of the Opioid Recovery Fund. The board is required under this bill to meet at least four times a year and publish an annual budget for administrative costs and expenses as well as a report detailing actual expenditures. Pursuant to Proviso 117.19 of the FY 2021-22 Appropriations Act, each board member will receive per diem of \$35, resulting in a total per diem expense for nine members of \$315 per board meeting.

SFAA indicates that administration of the Opioid Recovery Act will increase expenditures for the agency as a result of additional personnel and operating needs. SFAA reports that 2.0 FTEs will be required to carry out administrative duties specified in the bill, including administrative support for the board and the reporting of fund distribution. Each FTE will incur salary and fringe benefits of approximately \$117,000, for a total recurring annual expense of \$234,000. SFAA further estimates general operating costs associated with the board to be approximately \$142,000 per year for board compensation and reimbursement, a fund administration and reporting system, equipment setup and maintenance, and meeting space for the board. In total, this bill will increase expenditures for SFAA by approximately \$376,000 beginning in FY 2022-23.

The bill authorizes SFAA to receive reimbursement from the Administrative Subfund of the Opioid Recovery Fund to cover such board expenses and other administrative costs. Under this bill, up to 2 percent of settlement funds received by the state may be allocated to the Administrative Subfund. If estimated yearly administrative expenditures of \$376,000 exceed 2 percent of the Opioid Settlement Fund in a given fiscal year, SFAA may request additional General Funds to cover the difference. However, because settlement amounts are currently unknown, this bill's impact on General Fund expenditures for SFAA is undetermined.

Office of the Attorney General. The bill states the Attorney General shall designate an attorney within the Office of Attorney General to attend all South Carolina Opioid Recovery Fund Board meetings, to provide all necessary legal services to the board, to ensure that funds are spent only on approved abatement strategies, and to ensure that the board complies with all applicable laws, settlement agreements, and court orders. The Office of the Attorney General reports that it would require an FTE Attorney to comply with the requirements of the bill. Therefore, this bill will increase General Fund expenditures for the Office of Attorney General by \$96,000 for salary and fringe benefits beginning in FY 2022-23.

State Treasurer's Office. This bill requires the State Treasurer to establish the Opioid Recovery Fund to receive funds from opioid-related settlements. Under the provisions of the bill, all funds in the Opioid Recovery Fund must be used for approved abatement strategies except those expended on administrative expenses for the board or SFAA, and are separate and distinct from the General Fund. Within the Opioid Recovery Fund, this bill establishes the Discretionary Subfund, the Guaranteed Political Subdivision Subfund, and the Administrative Subfund. Payments from the Discretionary Subfund may be authorized by the board if the requestor has satisfied certain criteria specified in the bill. Payments from the Guaranteed Political Subdivision Subfund must also meet these requirements and the request must be made by the governing body of a participating political subdivision. Funds allocated to the Administrative Subfund may be disbursed to the board and SFAA to cover the costs of administering the provisions of this bill. STO indicates that creating the fund and subfunds required by the bill will be managed under normal business operation and have no expenditure impact.

Office of Inspector General. This bill requires OIG to investigate and address allegations of fraud, waste, abuse, mismanagement, and misconduct relating to the Opioid Recovery Fund.

OIG indicates that jurisdiction over all aspects of the Opioid Recovery Fund except for the Guaranteed Political Subdivision Subfund will fall under normal business operation and have no expenditure impact. OIG reports that pursuant to Section 1-6-10, the office is not authorized to carry out the investigative requirements of this bill as it relates to the political subdivision recipients of payments from the Guaranteed Political Subdivision Subfund. If the intent is for the OIG to investigate political subdivisions, the office indicates that additional personnel may be necessary. Therefore, the impact of this bill on OIG is undetermined.

Office of State Auditor. This bill requires OSA to conduct an annual examination of the Opioid Recovery Fund and provide a report to the board and SFAA. OSA indicates that any increase in operational expenses as a result will be managed within existing appropriations. Therefore, this bill will have no expenditure impact on OSA.

Judicial. The bill defines terms and provides the legal challenges to a decision of the South Carolina Opioid Recovery Fund Board must be brought as a declaratory judgment action in the Court of Common Pleas in Richland County by the participating political subdivision. Should there be an increase in caseloads, Judicial will absorb any expenditure impact on the General Fund using current resources.

Department of Health and Environmental Control. Under the provisions of this bill, DHEC must enter into an agreement with the board to enable the sharing of prescription information related to opioid issues with appropriate redactions. DHEC indicates that this will be managed under normal business operation and will have no expenditure impact.

State Revenue

As noted above, this bill establishes the Opioid Recovery Act. The revenue impact of this bill to the Opioid Recovery Fund is contingent upon opioid-related settlements entered into by the state or its political subdivisions. According to the Office of Attorney General, the Opioid Recovery Fund will receive such settlement funds totaling approximately \$63,662,000 in FY 2022-23, which will be expended pursuant to the provisions of this bill. Revenue in subsequent years is contingent upon future and current opioid-related settlement payout schedules and will vary.

Additionally, 2 percent of the fund may be allocated to the Administrative Subfund. RFA anticipates that this will be used to offset any administrative expenditures for SFAA. In FY 2022-23, approximately \$1,273,000 will represent 2 percent of the Opioid Recovery Fund based on expected revenues. This amount will fluctuate in further years based on settlement payout schedules.

Local Expenditure

N/A

Local Revenue

This bill establishes the Opioid Recovery Act Under the provisions of this bill, political subdivisions of the state will be eligible to receive payments from the Opioid Recovery Fund. The total payments will be contingent upon opioid-related settlements entered into by the state or

its political subdivisions as well as authorization by the board. Therefore, the local revenue impact is undetermined.



Frank A. Rainwater, Executive Director