

# Chapter 53

2022 Regular Session

**Subject** Opioid settlement

**Bill** S.F. 4025

**Analyst** Randall Chun

**Date** May 18, 2022

## Overview

This act implements changes related to the opioid settlement and the related intra-state agreement. The act:

- prohibits units of local government from asserting, filing, or enforcing claims that have been released as part of a statewide opioid settlement agreement;
- requires settlement funds to be deposited directly into the opiate epidemic response fund, rather than into a special account in the state treasury;
- eliminates the requirement that McKinsey settlement funds be used to pay for the cost of exempting opioids used for medication-assisted therapy from being counted toward the opioid volume threshold when determining whether a manufacturer is subject to the opiate product registration fee;
- creates two accounts in the opiate epidemic response fund – the registration and license fee account (for registration and license fees collected by the Board of Pharmacy) and the settlement account (for settlement dollars);
- makes a conforming change, specifying that appropriations in current law from the opiate epidemic response account are now from the registration and license fee account (no changes from current law are made in the purpose and amounts of these appropriations);
- specifies that money in the settlement account is to be used to: (1) provide funding for current law appropriations if money in the registration and license fee account is not sufficient; (2) provide funding to DHS for grant administration and other activities; (3) provide funding, through DHS, to Tribal social service agency initiative projects for child protection services; and (4) be distributed as grants as specified by the Opiate Epidemic Response Advisory Council (OERAC);
- establishes reporting requirements for municipality projects funded by settlement funds; and
- specifies that the \$250,000,000 threshold for reducing opioid manufacturer licensing fees and eliminating the opiate product registration fee can be met by settlement dollars received by either the state or a unit of local government, and provides that the reduction of licensing fees and elimination of the opiate product registration fee cannot occur before July 1, 2031.

## Summary

Section	Description
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1	<b>Release of opioid-related claims.</b>
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Adds § 3.757. States that units of local government (referred to as “municipalities”) do not have the authority to assert, file, or enforce a claim that is released as part of a statewide opioid settlement agreement.

**Subd. 1. Definitions.** Defines the following terms: municipality, opioid litigation, released claim, settling defendant, and statewide opioid settlement agreement.

**Subd. 2. Release of claims.** (a) Provides that no municipality has the authority to assert, file, or enforce a released claim.

(b) States that any claim in pending opioid litigation filed by a municipality against a settling defendant that is within the scope of a released claim is extinguished.

(c) Allows the attorney general to appear or intervene when a municipality has asserted, filed, or enforced a released claim against a settling defendant, and to release these claims with prejudice.

(d) States that this section does not limit causes of action, claims, and remedies, nor the authority for enforcement, by parties other than municipalities.

(e) States that this section does not limit causes of action, claims, and remedies, nor the authority for enforcement, by a municipality against entities and individuals, other than a released claim against a settling defendant.

States that this section is effective the day following final enactment.

2	<b>Exceptions.</b>
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Amends § 16A.151, subd. 2. The amendment to paragraph (f) requires settlement funds to be deposited directly into the settlement account within the opiate epidemic response fund, rather than into a separate account in the state treasury. Also makes a conforming change, striking language requiring a transfer from the separate account to the opioid fund if the opioid manufacturer licensing fees are reduced (from \$55,260 to \$5,260) and the opiate product registration fee of \$250,000 is repealed.

The amendment to paragraph (g) eliminates the requirement that money received from a settlement with a consulting firm working for an opioid manufacturer or distributor be transferred into the separate account, with the commissioner of management and budget then transferring from the separate account into the opiate epidemic response fund an amount equal to the estimated cost of medication-

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assisted therapy exemption (the exempting of opioids used for medication-assisted therapy from being counted toward the opioid volume threshold of 2 million or more units used to determine which manufacturers are subject to the opioid product registration fee). Instead, the section requires this money to be deposited into the settlement account within the opioid epidemic response fund, and be appropriated to the commissioner of human services to award as grants as specified by the Opiate Epidemic Response Advisory Council.

States that the section is effective the day following final enactment.

**3 Determination of an opiate product registration fee.**

Amends § 151.066, subd. 3. Strikes a reference to the separate account into which settlement funds are to be deposited under current law. This is a conforming change related to the elimination of the special account. This change is made in a section requiring the Board of Pharmacy to report to the commissioner of management and budget the cost of exempting opiates used for medication-assisted therapy from being counted when determining whether a manufacturer meets the quantity threshold for being assessed the opioid registration fee (the section repeals this reporting requirement). States that the section is effective the day following final enactment.

**4 Establishment of the advisory council.**

Amends § 256.042, subd. 1. Requires the council to review reports, data, and performance measures submitted by municipalities, and consult with stakeholders to review and provide recommendations for revisions to reporting requirements to ensure that required reporting accurately measures progress in addressing the harms of the opioid epidemic. Also allows municipality projects funded by settlement payments to be selected for experimental or quasi-experimental evaluation.

**5 Grants.**

Amends § 256.042, subd. 4. Updates cross-references to reflect the establishment of two accounts within the opiate epidemic response fund. Requires the advisory council to determine grant awards and amounts based on funds appropriated to the commissioner of human services from the registration and license fee account and the settlement account. States that the section is effective the day following final enactment.

**6 Reports.**

Amends § 256.042, subd. 5. Requires the annual reports of the advisory council to include information on municipality projects funded by settlement payments. Requires municipality projects to report specified information to the commissioner of human services. States that the section is effective the day following final enactment.

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7	<p><b>Definitions.</b></p> <p>Amends § 256.042, by adding subd. 6. Defines “municipality” and “statewide opioid settlement agreement.”</p>
8	<p><b>Establishment.</b></p> <p>Amends § 256.03, subd. 1. (a) Requires the commissioner of management and budget to establish two accounts within the opiate epidemic response fund – a registration and license fee account and a settlement account.</p> <p>(b) Requires the opiate product registration fee and certain license fees assessed by the Board of Pharmacy to be deposited into the registration and license fee account.</p> <p>(c) Requires any money received by the state from a settlement agreement, assurance of discontinuance, or court order related to the violation of consumer fraud laws in the marketing, sale, or distribution of opioids or other illegal actions contributing to the excessive use of opioids, to be deposited into the settlement account.</p> <p>States that this section is effective the day following final enactment.</p>
9	<p><b>Appropriations from registration and license fee account.</b></p> <p>Amends § 256.043, subd. 3. Makes conforming changes to existing opioid-related funding initially authorized in 2019, to reflect establishment of the registration and license fee account within the opiate epidemic response fund. These changes clarify that this funding is from the registration and license fee account (the funding language in current law refers just to the opiate epidemic response fund); no changes are made in the appropriation amounts. Also places in codified law an ongoing appropriation for Results First evaluations that is currently uncoded. Changes terminology, to refer to Tribal social service agency initiative projects, rather than tribal social service agencies. States that this section is effective the day following final enactment.</p>
10	<p><b>Appropriations from settlement account.</b></p> <p>Amends § 256.043, by adding subd. 3a. (a) Specifies that appropriations in this section are made from the settlement account in the order specified.</p> <p>(b) Requires money in the settlement account to be transferred to the registration and license fee account under subdivision 3, if the balance in the registration and license fee account is not sufficient to fully fund the required appropriations.</p> <p>(c) Appropriates \$209,000 in fiscal year 2023 and \$239,000 in fiscal year 2024 and subsequent fiscal years to the commissioner of human services to administer grants awarded under paragraph (e). Appropriates \$276,000 in fiscal year 2023 and</p>

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\$151,000 in fiscal year 2024 and subsequent fiscal years to the commissioner of human services, to collect, collate, and report data submitted and to monitor compliance by grantees and municipalities with reporting and settlement expenditure requirements.

(d) After any appropriations under paragraphs (b) and (c), appropriates each calendar year to the commissioner of human services, for distribution to Tribal social service agency initiative projects to provide child protection services to children and families affected by addiction, an amount equal to the allocation provided for this purpose from the registration and license fee account under subdivision 3. Provides that the requirements in subdivision 3 related to proportional distribution, annual reporting, and maintenance of effort apply to the appropriation under this paragraph.

(e) After the appropriations in paragraphs (b) through (d), appropriates the remaining amount in the account to the commissioner of human services, to award grants as specified by the Opiate Epidemic Response Advisory Council.

(f) Provides that funds for Tribal social service agency initiative projects and OERAC grants may be distributed on a calendar year basis (as are funds for these purposes distributed from the registration and license fee account).

States that this section is effective the day following final enactment.

**11 Settlement; sunset.**

Amends § 256.043, subd. 4. Specifies that any money received as a result of an opioid settlement agreement directly allocated or distributed and received by either the state or a municipality (units of local government) shall be counted towards the \$250,000,000 threshold, at which license fees are reduced and the opiate product registration fee is eliminated. Clarifies the language related to this threshold. Provides that the fee reduction and elimination of the opiate product registration fee cannot occur before July 1, 2031 (the date under current law at which this can occur is July 1, 2024). States that the section is effective the day following final enactment.

**12 Appropriations.**

Amends Laws 2019, chapter 63, article 3, § 1. Makes conforming changes related to the codification elsewhere in the bill of an ongoing appropriation for Results First evaluations.

**13 Commissioner of management and budget.**

Amends Laws 2021, First Special Session chapter 7, article 16, § 12. Makes conforming changes related to the codification elsewhere in the bill of an ongoing appropriation for Results First evaluations.

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**14** **Transfer; elimination of an account.**

(a) Requires the commissioner of management and budget to transfer any money in the separate account to the settlement account in the opiate epidemic response fund, to be appropriated to the commissioner of human services to be awarded as grants as specified by OERAC.

(b) Once the money is transferred as provided in paragraph (a), requires the commissioner to eliminate the separate account.

States that this section is effective the day following final enactment.



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