



Brevard County Board of County Commissioners

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Legislation Text

File #: 3099, **Version:** 1

Subject:

In re: National Prescription Opioid Litigation - Approval to Vote in Favor of the Purdue Bankruptcy Restructuring Plan; Request Approval for Staff to Pursue Interlocal Agreements with Cities pursuant to the State of Florida's Memorandum of Understanding

Fiscal Impact:

None

Dept/Office:

County Attorney's Office on behalf of outside Counsel for the Opioid Litigation

Requested Action:

Authorize outside Counsel to vote in favor of the Purdue Bankruptcy restructuring Plan on behalf of Brevard County, and Authorize Staff to Pursue Interlocal Agreements with Cities pursuant to the State of Florida's Memorandum of Understanding's Qualified County standard.

Summary Explanation and Background:

Brevard County has filed a lawsuit as part of In re: National Prescription Opiate Litigation, Case No. 17-md-2804, which is the multi-district litigation against the opioid manufacturers, distributors, and retailers in the District Court for the Northern District of Ohio. In 2019, one of the Defendants, Purdue Pharma, L.P. and its affiliated entities (collectively Purdue) filed a Chapter 11 Bankruptcy. On July 21, 2020, the Board authorized Outside Counsel to file a proof of claim in the Bankruptcy. Recently, Purdue has submitted its plan to restructure the Company (the Plan).

In accordance with the Nationwide Settlement Framework, Purdue has submitted a Restructuring Plan (Purdue's Plan). The County, as an unsecured creditor, can submit a ballot by the deadline of July 14, 2021 to either accept, reject, or abstain from voting on the restructuring plan. The restructuring plan provides for approximately \$6 billion in assets from Purdue Pharma, L.P., its shareholders, and the Sackler Family. Approximately \$5 Billion of the recovered assets will be allocated among state, local and tribal governments. The funds received by these entities will be restricted to uses that abate the opioid problem in the community. The State of Florida, including its cities and counties, is expected to receive approximately 7% of the amount allocated to government entities.

In April 2021, the State of Florida's Attorney General sent all Florida Counties a request to join a Memorandum of Understanding and Formal Agreement, by passing a non-binding resolution setting out how opioid settlement funds will be distributed in Florida (the Florida Settlement Plan). The Board passed a Resolution in support of this unified plan for the allocation of settlement proceeds on May 18, 2021.

In order for Brevard County to maximize the amount of funds it receives under the Florida Settlement Plan, as well as maximize the amount of local control the County has over the funds, Brevard County needs to be a “Qualifying County” under Florida’s Settlement Plan. There are several requirements that must be met, but the requirement with the longest lead time is that the County must enter into agreements with enough of the cities to equate to 50 percent of the municipal population in the County. Accordingly, the Board is requested to authorize Staff to negotiate interlocal agreements with the Cities which will be brought back to the Board for approval. Outside Counsel will be involved in drafting the template for the interlocal agreement(s).

The opioid litigation is being handled by outside Counsel, including Mr. Steve Charpentier (Charpentier Law Firm, P.A.); Mr. Matthew Mokwa (Maher Law Firm, P.A.); Mr. Mark Dearman (Robbins, Geller, Rudman & Dowd, LLP) and Ms. Paulina do Amaral (Lieff, Cabraser, Heimann, & Bernstein, LLP). All of the outside attorneys are recommending approval of the Purdue Pharma, L.P. restructuring plan, and that the Board authorize staff to negotiate interlocal agreements with the Cities. Additionally, the Plaintiff’s Executive Committee in MDL 2804 (the “PEC”) and the ad hoc committee of governmental and other contingent litigation claimants (the “Ad Hoc Committee”) recommend that Brevard County vote to approve the Plan.

Mr. Charpentier and Mr. Mokwa will attend the Board meeting to address any questions which may arise.

The Plan [Docket No. 2982] and Disclosure Statement [Docket No. 2983] and all related filings are available at: <https://restructuring.primeclerk.com/purduepharma/Home-DocketInfo>.

Clerk to the Board Instructions:

Return a copy of the Clerk’s memo to the County Attorney’s Office.