

I\_133\_1450

133rd General Assembly  
Regular Session  
2019-2020

. B. No.

---

**A BILL**

To enact section 109.38 of the Revised Code to  
grant to the Attorney General sole authority to  
bring a civil action and consolidate other  
actions based on a matter of statewide concern  
and to create a Statewide Remediation Fund for  
the deposit of moneys adjudged to the state in  
the action.

1  
2  
3  
4  
5  
6  
7

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 109.38 of the Revised Code be  
enacted to read as follows:

8  
9

**Sec. 109.38.** (A) As used in this section:

10

(1) "Matter of statewide concern" means any conduct or  
harm that is more likely than not to adversely affect the  
interests of citizens of at least five of the counties of this  
state.

11  
12  
13  
14

(2) "Political subdivision" or "subdivision" means a  
municipal corporation, township, county, school district, or  
other body corporate and politic responsible for governmental

15  
16  
17



nph3bqzbqw6ykkmqtp7ep

activities in a geographic area smaller than that of the state. 18

(B) (1) The attorney general has the sole and exclusive 19  
authority to bring a civil action on behalf of the citizens of 20  
this state based on a cause of action that is related to a 21  
matter of statewide concern in the appropriate court of common 22  
pleas that has jurisdiction over that cause of action. 23

(2) If any civil action or actions pending in any state 24  
court or courts are based on causes of action that are the same 25  
as or similar to a cause of action that is the basis of an 26  
action brought by the attorney general under division (B) (1) of 27  
this section, the attorney general shall do both of the 28  
following: 29

(a) Seek to have the pending action or actions dismissed 30  
in the appropriate court or courts; 31

(b) Upon dismissal of the action or actions under division 32  
(B) (2) (a) of this section, consolidate the causes of those 33  
actions with the action brought by the attorney general under 34  
division (B) (1) of this section. 35

(C) Any political subdivision may request the attorney 36  
general to exercise the authority to bring a civil action 37  
described in division (B) (1) of this section to ensure that the 38  
interests of the citizens of that political subdivision are 39  
protected. The attorney general may exercise that authority upon 40  
reasonable belief that the cause of action alleged by that 41  
political subdivision is related to a matter of statewide 42  
concern. 43

(D) If a political subdivision has filed an action in a 44  
federal court that the attorney general reasonably believes 45  
asserts a cause of action related to a matter of statewide 46

concern, this state as represented by the attorney general has  
standing before that federal court to seek to dismiss the  
political subdivision's action in order for the attorney general  
to bring an action as described in division (B) (1) of this  
section. Upon dismissal of the political subdivision's action by  
the federal court, the attorney general shall file an action  
under that division.

(E) Any judgment or settlement for money recovered by the  
state in an action filed by the attorney general under division  
(B) (1) or (2) of this section shall be deposited in the state  
treasury to the credit of the statewide remediation fund, which  
is hereby created. Moneys deposited into the statewide  
remediation fund shall be distributed as follow:

(1) Five per cent of the moneys shall be transferred to  
the attorney general to be used for any purpose consistent with  
the general authority of the office of the attorney general.

(2) If a civil action or actions filed by political  
subdivisions have been consolidated into an action filed by the  
attorney general under division (B) (2) of this section, five per  
cent of any resulting judgment or settlement for money recovered  
by the state shall be reserved for the payment of outside  
counsel employed by the political subdivision or subdivisions  
for legal services in filing the action or actions. The attorney  
general shall seek an order from the court in which the attorney  
general's action is pending for the distribution of those  
amounts in a manner reasonably calculated to compensate the  
attorney or attorneys for the value of the legal services  
performed in relation to the action or actions by the political  
subdivisions.

(3) The balance of the fund after the payments described

in divisions (E) (1) and (2) of this section shall be allocated 77  
by the general assembly to address matters of statewide concern, 78  
with not less than twenty per cent of any such allocation being 79  
directed to the involved political subdivision or subdivisions 80  
for use to remediate the conduct or harm that was a matter of 81  
statewide concern in accordance with any conditions or 82  
restrictions set by the general assembly. 83

(4) Moneys deposited into the statewide remediation fund 84  
shall not be used for infrastructure or roadway planning, 85  
maintenance, or construction and shall not be securitized or 86  
monetized. 87