The Senate Committee on Judiciary offered the following substitute to SB 500:

A BILL TO BE ENTITLED
AN ACT

To amend Title 10 of the Official Code of Georgia Annotated, relating to commerce, so as to provide for a litigation bar on governmental entities regarding certain state-wide opioid litigation; to provide for legislative findings and intent; to provide for definitions; to provide for applicability; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 10 of the Official Code of Georgia Annotated, relating to commerce, is amended by adding a new chapter to read as follows:

*CHAPTER 13B

10-13B-1.

The General Assembly finds that:

(1) There is an opioid epidemic occurring in the United States, and the State of Georgia has been greatly impacted;
(2) State-wide coordination surrounding and managing opioid addiction and related disorders is critical to the health and safety of all Georgians;

(3) Funding is needed in the state for, among other things, prevention and treatment of opioid addiction and related disorders; providing resources to law enforcement agencies to address the opioid crisis; increasing the number of professionals who provide treatment for opioid addiction; educating medical professionals regarding the safe and effective prescribing of, and then tapering off of, opioids; and treatment and prevention of opioid use disorder in incarcerated populations;

(4) It is imperative that the state receive the full amount of any opioid settlement, and in order to do so, the state must be able to release claims for all state and local public bodies and instrumentalities in the state; and

(5) While local governments generally have the authority to pursue and litigate claims against businesses and individuals to protect their own interests, in certain limited circumstances involving particular industries, the interests of the state as a whole are best served by having a unified settlement structure that benefits both the state and its local governments and brings full and complete closure to the claims that were asserted or could have been asserted and maximizes the state and local governments' potential recovery to address this extraordinary crisis.

10-13B-2.

(a) As used in this chapter, the term:

(1) 'Governmental entity' means:

(A) This state and each of its departments, agencies, divisions, boards, commissions, authorities, and instrumentalities; and

(B) A political subdivision or creation of this state, including a county, municipality, special district, county and independent school systems, community service board, authority, any county or state officeholder, and any other public officeholder or public
entity that has asserted or could assert a claim for damages as a result of the manufacture, marketing, sale, dispensing, or distribution of opioids.

(2) 'Released claim' means a claim by a governmental entity that has been or could have been released under a state-wide opioid settlement agreement.

(3) 'Released entity' means an entity against which a claim has been released under a state-wide opioid settlement agreement.

(4) 'State-wide opioid settlement agreement' means any settlement agreement and related documents that:

(A) Are entered into by this state through the Attorney General with opioid manufacturers, distributors, retailers, labelers, marketers, pharmacies, or other entities concerning the use or prescription of opioid products;

(B) Relate to illegal or tortious conduct in the manufacturing, marketing, promotion, sale, distribution, or dispensing of opioids;

(C) Are entered into by the State on or after March 31, 2021;

(D) Provide a mechanism which permits governmental entities to join into such settlement agreement; and

(E) Are the subject of a memorandum of understanding or similar agreement entered into by both the Attorney General and at least 65 percent of the governmental entities which have active and pending litigation against one or more released entities identified in the settlement agreement as of the date when governmental entities are first permitted to join such settlement agreement.

10-13B-3.

(a) Entry into a state-wide opioid settlement agreement shall serve to bar any and all past, present or future claims on behalf of any governmental entity seeking to recover against any business or person that is a released entity under the terms of the relevant settlement. Such bar shall apply to any and all released claims or suits by any governmental entity
created by or pursuant to an Act of the General Assembly, the Constitution, or any
department, agency, or authority thereof, for damages, abatement, injunctive or any other
relief. No such claim barred by this Code section shall be brought, threatened, asserted or
pursued in any way in any court, and any such claim shall be dismissed by the court in
which the claim is brought.

(b) The bar provided for in subsection (a) of this Code section shall not apply to a
bellwether claim of any governmental entity, provided that such claim:

(1) Is brought in the proceedings titled In re: National Prescription Opiate Litigation,
    Case No.: MDL 2804 as bellwether claims that are to be tried in a bellwether trial;
(2) Is selected by the court in In re: National Prescription Opiate Litigation, Case No.:
    MDL 2804 as a bellwether claim to be tried in a bellwether trial; and
(3) Is brought against defendants selected as bellwether defendants in a bellwether trial.

(c) The bar provided for in subsection (a) of this Code section shall become active and
effective upon the filing of a consent order by the state that attests to and evidences that a
state-wide opioid settlement agreement has been reached, and that the parameters of this
chapter have been met.”

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law
without such approval.

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.