

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM
2022 REGULAR SESSION
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Amend printed copy of **HB 92/PSS 2**

On page 3, line 21, after "urban-county government," insert "and"; and

On page 3, line 21, after "city", place brackets around and strike through ", political subdivision, and public agency, as that term is defined in KRS 61.805(2),"; and

On page 4, between lines 15 and 16, insert the following:

"➔SECTION 2. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established a supplemental attorney fees fund to be used to compensate private attorneys to be known as the local government fee fund. These funds shall be maintained and administered by Wilmington Trust, N.A., which was appointed the Directed Trustee of the settlement administration of the National Opioid Settlement.

(2) The local government fee fund shall consist of moneys received from any national settlement included in Section 1 of this Act or related to opioid manufacturing or distribution. Moneys deposited in the fund shall be a percentage of the collective local government share in Kentucky provided by subsection (4) of Section 1 of this Act, that when added to the percentage awarded to attorneys from the national contingency fee fund established by court order in In re National Prescription Opiate Litigation, MDL No. 2804, Case No. 1:17-md-02804, in the United States District Court for the Northern District of Ohio, shall not exceed fifteen percent (15%) in aggregate. No portion of the

Amendment No. SCA

Rep. Sen. Phillip Wheeler

Committee Amendment _____

Signed: _____

Floor Amendment _____

LRC Drafter: _____

Adopted: _____

Date: _____

Rejected: _____

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state share as provided in subsection (3) of Section 1 of this Act shall be used for the local government fee fund or in any other way to fund any participating local government's attorney's fees and costs.

(3) (a) The amounts deposited into the fund shall be used to compensate counsel for counties, consolidated local governments, urban-county governments, and cities of the Commonwealth that filed an opioid lawsuit on or before June 1, 2021.

(b) Allocation of payments out of the fund shall be determined by a mathematical model to calculate allocation of payments to counsel from the local government fee fund, which shall be based on the share of each county, consolidated local government, urban-county government, and city of the Commonwealth and shall be determined by the negotiation class metrics and the rate set forth in their contingency contracts, which shall be provided by counsel for a litigating participating local government, in order for counsel to be eligible to receive payments from the local government fee fund.

(c) Counsel shall not collect more for its work on behalf of a county, consolidated local government, urban-county government, or city of the Commonwealth from the national contingency fee fund or the local government fee fund than 15% of the aggregate of the collective local government fee fund and the national contingency fee fund as established in *In re National Prescription Opiate Litigation*, MDL No. 2804, Case No. 1:17-md-02804, in the United States District Court for the Northern District of Ohio. In order to collect from the local government fee fund, counsel must also first apply to the national contingency fee fund.

(4) No less than eighty-five percent (85%) of the proceeds received by each county, consolidated local government, urban-county government, or city of the Commonwealth

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shall go toward abatement of the opioid epidemic in those communities.

- (5) The amount and timing for the payments to counsel from the local government fee fund shall be consistent with the percentages and timing set forth in Exhibit R, Section II. A. 1. of the Distributor Settlement Agreement and Exhibit R, Section II. A. 1. of the Janssen (Johnson & Johnson) Settlement Agreement. With respect to any future settlements, payments to the local government fee fund shall be consistent with the attorney's fee and cost schedules set forth in any future settlement agreements.
- (6) Any funds remaining in the local government fee fund in excess of the amounts needed to cover private counsels' representation agreements consistent with the terms established in this section shall revert to the participating local governments to be reallocated using the same Negotiation Class Metrics and used for approved purposes as set forth herein and in Section 1 of this Act. Any interest earnings of the fund shall become a part of the fund and shall not lapse."; and

Renumber the subsequent section accordingly; and

On page 4, after line 19 insert:

"→Section 4. Whereas it is imperative that the attorney fees be paid in accordance with In re National Prescription Opiate Litigation, MDL No. 2804, Case No. 1:17-md-02804, in the United States District Court for the Northern District of Ohio, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law."