



The opioid abatement trust fund would receive 50% of the funds from the settlement of lawsuits against opioid manufacturers or distributors in various cases listed within the section or any other moneys received from state appropriations, gifts, grants, or federal funds. The money in the trust fund would be distributed to counties, cities, consolidated local governments, and urban county governments based upon the criteria for distribution established in Section 1(5).

The bill does not indicate that the fund would receive proceeds from settlements or final jury awards in any of the lawsuits against other manufacturers or distributors that are being sued by the Commonwealth, and it does not indicate whether proceeds from any future litigation against other opioid manufacturers or distributors would be deposited in the fund.

The remaining fifty percent of funds from the settlement of the lawsuits would be paid to counties, cities, consolidated local governments, and urban county governments pursuant to an agreement among those entities that incorporates the criteria of Section 1(5). If they are unable to agree, the money would be paid to a trustee appointed jointly by the Kentucky League of Cities and the Kentucky Association of Counties for eventual distribution to counties, cities, consolidated local governments, and urban county governments using the criteria in Section 1(5).

Each entity receiving funds must submit an annual summary and certification that the funds were used for the required purposes. Moneys in the fund not expended at the end of a fiscal year would not lapse. Funds must be distributed annually. The Department of Law would be reimbursed costs associated with the litigation. Local governments could only receive funds if they had released any claims they had against the defendants. Distributions from the funds would continue until there was no more money in the fund.

**HB 427 HCS 1 would have an indeterminable but positive fiscal impact on local governments.** Any funds that would be distributed from the opioid abatement trust fund to local governments would help offset existing expenditures and would help provide needed funding for programs. Because no settlements or formulas for distribution have been finalized, it is not possible to determine the amount of funds that local governments would receive. Generally speaking, local governments that do not relinquish their claims in these lawsuits would not receive funds from the trust fund; these local governments may receive less, the same, or more than the funding they might receive from the opioid abatement trust fund. However, HB 427 HCS 1 increases the initial percentage of distribution to local governments from 15% to 50%, which would have a *greater* positive fiscal impact than HB 427.

Reports have estimated multistate settlements involving McKesson, AmerisourceBergen, Cardinal Health, and Johnson & Johnson range from \$10 billion to \$50 billion. Kentucky would receive a portion of any final settlement. West Virginia has separately settled its claims against Cardinal Health and AmerisourceBergen for \$36 million.

In early February, 2021, it was announced that Kentucky will receive \$10,812,204.58 as its portion of a \$573 million multistate settlement against McKinsey & Company, which provided consulting services to opioid manufacturers, including Purdue Pharma. Kentucky settled its claims against Purdue Pharma for \$24 million in 2015. These funds would not be placed in the opioid abatement trust fund. Kentucky is also suing Endo Pharmaceuticals, Walgreens, Teva Pharmaceuticals, Insys Therapeutics, and Mallinckrodt, but no proceeds from these lawsuits would be deposited into the trust fund. Mallinckrodt, which has filed for bankruptcy, has also agreed to pay \$1.6 billion in a multistate settlement, but the status of this settlement is unclear at this time. Bankruptcy proceedings may allow the company to restructure the settlement.

There would be a minimal administrative burden on city officials to submit the annual reports, but this likely would have minimal financial impact.

### **Part III: Differences to Local Government Mandate Statement from Prior Versions**

Part II, above, relates to HB 427 HCS 1. **HB 427 HCS 1 would have a greater positive fiscal impact.** HB 427 HCS 1 makes the following substantive changes to the introduced version of the bill:

- Increases the types of projects for which local governments may be provided funding;
- Provides that 50% of all settlement proceeds would be deposited into the opioid abatement trust fund, increasing the percentage from 15% as was provided in the introduced version of the bill;
- Establishes a trustee to oversee distribution of the remaining 50% of the funds if the local governments are unable to agree to distribution criteria; and
- Requires a more detailed annual report/certification of the funds received and used by local governments.

**Data Source(s):** [LRC staff; https://kentucky.gov/Pages/Activity-stream.aspx?n=AttorneyGeneral&prId=1018;](https://kentucky.gov/Pages/Activity-stream.aspx?n=AttorneyGeneral&prId=1018)  
[https://www.wkyt.com/2020/10/12/mallinckrodt-ensnared-in-opioid-crisis-seeks-chapter-11/;](https://www.wkyt.com/2020/10/12/mallinckrodt-ensnared-in-opioid-crisis-seeks-chapter-11/) [Opioid distributors said to propose \\$10 billion settlement to end state lawsuits \(cnbc.com\);](#) [Drug Giants Close In on a \\$50 Billion Settlement of Opioid Cases - The New York Times \(nytimes.com\);](#) [2 drug distributors to pay \\$36M to settle WV painkiller lawsuits | Health | wvgazette.com;](#)  
<https://apnews.com/article/5eba8e71298d41849a94ad1017a90aea;>  
[https://www.courier-journal.com/story/news/local/2021/02/04/kentucky-get-more-than-10-8-m-mckinsey-opioid-settlement/4391020001/;](https://www.courier-journal.com/story/news/local/2021/02/04/kentucky-get-more-than-10-8-m-mckinsey-opioid-settlement/4391020001/)  
<https://www.dailymail.co.uk/health/article-8921963/Four-firms-offer-26-billion-settle-thousands-lawsuits-opioid-epidemic.html>

**Preparer:** Robert Jenkins      **Reviewer:** KHC      **Date:** 2/24/21