

**California Department of Health Care Services
Proposed Trailer Bill Legislation**

Opioid Settlements Fund

FACT SHEET

Issue Title: Opioid Settlements Fund. The Department of Health Care Services (DHCS) proposes to establish the Opioid Settlements Fund (OSF) and codify the State’s administration of opioid settlements.

Background: The opioid epidemic has caused devastation across the nation. From 1999 to 2020, nearly 841,000 people died from a drug overdose, with prescription opioids serving as a factor in nearly 247,000 of those deaths. Overdose deaths involving opioids have increased six-fold since 1999.¹ In response to the opioid epidemic, several lawsuits have reached settlement agreements which impact California and there may be more settlements in the future. In the first settlement agreement, the Attorney General settled claims against McKinsey related to services it provided to the opioid industry.

Second, nationwide settlement agreements with Janssen Pharmaceuticals (Janssen’s parent company is Johnson & Johnson) and distributors, McKesson, Cardinal Health and AmerisourceBergen, have recently been finalized. Under these settlements, California and its cities and counties will receive approximately \$2.2 billion over nearly two decades for substance use prevention, harm reduction, treatment, and recovery activities pursuant to the List of Opioid Remediation Uses specified in the settlement agreements. Under an agreement between the State and litigating local governments, fifteen percent of the funds are allocated to the State and must be utilized for State determined priorities that pertain to opioid remediation. Seventy percent is allocated to the California Abatement Accounts Fund and must be allocated to counties and cities under the methodology developed in the nationwide agreement and will be used for future opioid remediation in one or more of the areas described in the settlement List of Opioid Remediation Uses. An addition 15 percent will be allocated to counties and cities for similar remediation purposes after their litigation costs are paid.

Justification for Change: DHCS proposes to establish the OSF for the proceeds from recent and future opioid judgments and settlements. Under the state-local government agreements implementing the Janssen and Distributors settlement agreements, DHCS has been designated as the oversight and monitoring department to oversee specific activities of the State use of funds and of participating counties and cities over multiple years. The proposed trailer bill also provides DHCS authority to implement the requirements established in the settlement agreements.

¹ [Data Overview | CDC's Response to the Opioid Overdose Epidemic](https://www.cdc.gov/opioids/data/index.html), Centers for Disease Control and Prevention, <https://www.cdc.gov/opioids/data/index.html>

Specifically, this proposal would:

- Establish the OSF in the California State Treasury (Government Code Section 12534(a)).
- Require the State Controller to transfer funds from the McKinsey, Janssen, and Distributors settlements, and any future judgments or settlements into the OSF, upon the order of the Director of Finance (Government Code Section 12534(b) and (c)).
- Require funding in the OSF to be utilized for opioid remediation, upon an appropriation by the Legislature, as specified (Government Code Section 12534(d)).
- Require DHCS to administer the OSF and oversee and monitor OSF-funded activities, as specified (Government Code Section 12534(e)).
- Require any unexpended or unencumbered funds, as specified, to be transferred to the state and deposited into the OSF (Government Code Section 12534(f)).
- Authorize DHCS to implement, interpret, or make specific the program, in whole or in part, by means of information notices or other similar instructions, without taking any further regulatory action (Government Code Section 12534(g)).
- Authorize DHCS to enter into exclusive or nonexclusive contracts, or amend existing contracts, on a bid or negotiated basis in order to promptly distribute funds (Government Code Section 12534(h)).
- Define “California participating subdivision” as a city, county, or political subdivision participating in the 2022 settlement agreement, as specified. (Government Code Section 12534(i)).

Summary Argument in Support: California will effectuate the provisions outlined in the opioid settlements and ensure the funding is properly expended on allowable opioid remediation activities.

BCP or Estimate Issue # and Title: 4260-197-BCP-2022-A1 Opioid Settlements Funds Oversight and State-Directed Programs and 4260-175-BCP-2022-GB Medication Assisted Treatment Expansion Project