

To: Board of County Commissioners
Penny Postoak Ferguson, County Manager
From: Maury Thompson, Deputy County Manager
Date: July 21, 2022
Re: Consider establishing an opioid litigation settlement fund

Issue: Resolution No. 048-22. Consider adopting Resolution No. 048-22 establishing an opioid litigation settlement fund for the purpose of receiving opioid litigation settlement funds.

Suggested Motion: I move to adopt Resolution No. 048-22 establishing an opioid litigation settlement fund for the purpose of receiving opioid litigation settlement funds.

Background: On June 13, 2019, the Board authorized the retention of special counsel to file a lawsuit to recover damages sustained by Johnson County related to the opioid epidemic, including claims related to the manufacturing, marketing, promotion, distribution, dispensing and prescription of opioids. In 2021, the Kansas Legislature enacted the Kansas Fights Addiction Act (the "Act"), which authorizes litigating municipalities such as Johnson County to access opioid litigation settlement funds and become eligible for certain state grants by entering into an agreement releasing Johnson County's opioid claims to the Kansas Attorney General and assigning future opioid claims to the Attorney General. Pursuant to the Act, the Kansas Attorney General, the League of Kansas Municipalities, and the Kansas Association of Counties have entered into the Kansas Opioids Memorandum of Understanding ("MOU"), which establishes a framework and formula for the distribution of settlement funds received from opioid litigation to the State of Kansas, counties, and cities. On December 16, 2021, the Board adopted Resolution No. 109-21 and thereby approved and joined the MOU and released and assigned its opioid claims to the Attorney General.

Analysis: The first distribution of opioid litigation settlement funds to Johnson County was received July 8, 2022, in the amount of \$113,560.43, from the McKinsey settlement. It is anticipated that distribution of additional funds from the various settlements will occur over the next 18 years. The Act and the MOU provide that opioid litigation settlement funds received by Johnson County shall be used for projects and activities that prevent, reduce, treat, or mitigate the effects of substance abuse and addiction or to reimburse the County for its previous expenses related to substance abuse mitigation or arising from covered conduct as defined by the Act. The MOU requires that opioid litigation settlement funds be held in a segregated account. The establishment of an opioid litigation settlement fund as a special revenue fund subject to the provisions of the Act and MOU fulfills this requirement.

Funding Overview: Johnson County will receive an undetermined amount of opioid settlement funds in 2022 and future years, which will be subject to the requirements of the Act and the MOU. A 2022 budget amendment will be required to spend the funds. Staff will bring forward a request to establish the date for a public hearing to begin the budget amendment process later this year.

Alternatives: The Board could take no action, which would make Johnson County ineligible to receive opioid litigation settlement funds under the Act and the MOU.

Recommendation: Adopt Resolution No. 048-22 establishing an opioid litigation settlement fund for the purpose of receiving opioid litigation settlement funds.

Purchasing Review: N/A.

Budget Review: Budget and Financial Planning staff has reviewed the briefing sheet and proposed resolution.

Legal Review: The Legal Department has prepared the proposed resolution.