

SB 419 _FAV_MML.pdf

Uploaded by: Bill Jorch

Position: FAV



Maryland Municipal League
The Association of Maryland's Cities and Towns

TESTIMONY

February 22, 2022

Committee: Senate Finance

Bill: SB 419 - Opioid Restitution Fund - Appropriation of Settlement Funds

Position: Support

Reason for Position:

The Maryland Municipal League (MML) supports Senate Bill 419 which directs the State to allocate funds from the National Opioid Settlement to local governments per the State-Subdivision Agreement.

MML, the Maryland Association of Counties (MACo), and the Office of the Attorney General (OAG) worked on the details of the framework known as the State-Subdivision Agreement for months with the end result being a balanced document. The framework will allow for the State and local governments to use these funds for specific permitted uses with the primary objectives of opioid remediation and prevention.

Specifically, the Agreement allocates funds to municipalities in two different ways. For the 35 municipalities that either brought litigation against the defendant companies or met a certain population threshold set in the National Opioid Settlement, they will receive some funds directly while the remainder will be disbursed by the State after a plan is submitted detailing expected uses of the funds. The other 122 municipalities, that either chose not to file suit or have a smaller population can submit applications to a State created competitive grant fund for worthy projects or services with similar objectives.

The carefully crafted framework to allocate Settlement funds referenced in this bill allows for all municipalities to have access to these funds to continue the ongoing efforts to curb the opioid epidemic. As such, the League respectfully requests that this committee issue a favorable report on SB 419.

FOR MORE INFORMATION CONTACT:

Scott A. Hancock

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Bill Jorch

Justin Fiore

Executive Director

Director, Government Relations

Director, Research and Policy Analysis

Manager, Government Relations

2022-02-22 SB 419 (Support).pdf

Uploaded by: Brian Frosh

Position: FAV

BRIAN E. FROSH
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STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

FACSIMILE NO.

WRITER'S DIRECT DIAL NO.
443-463-0751

February 22, 2022

To: The Honorable Delores G. Kelley
Chair, Finance Committee

From: Brian E. Frosh
Attorney General

Re: SB0419 (HB1086) – Opioid Restitution Fund – Appropriation of Settlement Funds –
Support

Chair Kelley, Vice Chair Feldman, and distinguished Members of the Finance Committee, I am Brian Frosh and I'm here to urge a favorable report on Senate Bill 419. That legislation, introduced by Senator Feldman at our request, will facilitate the State-Subdivision Agreement we entered into in January 2022 ("Agreement") to allocate Maryland's share of the settlement proceeds.

In July 2021, in the culmination of years of investigations and settlement discussions led by state attorneys general from around the country, almost every state (including Maryland) and national counsel for local subdivisions (including most of Maryland's subdivisions) entered into preliminary settlement agreements with (a) the nation's three largest distributors of prescription drugs – Cardinal Health, Amerisource Bergen, and McKesson – and (b) the opioid manufacturer Janssen (a Johnson & Johnson subsidiary) that resolve the states' and their subdivisions' claims for illegal conduct in the sale and marketing of opioids.

The settlements are valued at a maximum of up to \$26 billion dollars over 18 years, of which just over \$2 billion is set aside to pay for private counsel attorney's fees and to pay additional funds to states – like Maryland – that did not use private counsel in their investigations of the defendants.

Maryland's maximum share is 2.11 percent of the national amount, or up to about \$492 million; Maryland obtained a higher share than its population would indicate because the opioid crisis hit Marylander harder than it hit other states. Eighty-five percent (85%) of the money must be used for a variety of authorized evidence-based or evidence-informed opioids abatement

programs, such as programs providing treatment for substance use disorders and overdose reversal medicines, among numerous other options.

The \$26 billion nationally and \$492 million for Maryland, however, are *maximum amounts*. How much Maryland ultimately receives depends on the level of participation of the State's subdivisions (the defendants want global peace from litigation that has been or could be brought by state and local government entities). To get the full \$492 million, Maryland needs to have 100 percent participation by subdivisions meeting the requisite population thresholds.

The settlement agreements left it to states to recruit their individual subdivisions for participation, a process that took place between July 2021 and January 2022 (although subdivisions may still join). To enable the states to do so, the settlement agreements provided that individual states and their subdivisions could determine how to allocate settlement proceeds within the states.

Together with the Maryland Association of Counties ("MACo"), the Maryland Municipal League ("MML"), officers and counsel for the State's, and I ultimately entered into the Agreement that is the subject of SB 419. That Agreement allocates funds to the subdivisions as follows:

- 15 percent will be paid directly to the Maryland Opioid Restitution Fund ("ORF") created by State Finance & Procurement Art. § 7-331 for use by the State in accordance with that section.
- 60 percent is paid to the ORF for use as follows:
 - 15 percent of the overall settlement is for use by the State for abatement programs in its discretion or through a grant program through which the State may provide funding to subdivisions that do not otherwise receive an allocation under the agreement. The State must establish a competitive grant program for these subdivisions, but the decision whether to grant funding is in the State's discretion.
 - 45 percent of the overall settlement must be distributed by the State in grants to local governments that filed lawsuits or that have populations of 10,000 or more. These funds must be placed into separate local opioid abatement funds designed like the ORF and may be spent only on evidence-based or evidence-informed opioids abatement programs.
- 25 percent is paid directly to participating subdivisions that litigated or have populations greater than 10,000. These subdivisions may use up to 60 percent of this amount for reimbursement of past abatement expenses but must use at least 40 percent for future abatement programs.

Through this process, we were able to obtain the participation of 58 of the 60 required subdivisions that filed litigation or have populations of more than 10,000 residents. This constitutes just over 90 percent of the relevant population for purposes of determining how much

the State and its subdivisions receive under the settlement agreements. Without the two jurisdictions that declined to participate (Baltimore City and Baltimore City Public Schools) the State will receive collectively about \$395 million of the \$492 million available under the settlement over 18 years. Payments in 2022 will occur in April and July.

By providing for the appropriation, distribution, and expenditure of settlement proceeds according to the State-Subdivision Agreement, Senate Bill 419 will enable us to abide by the Agreement's terms. The legislation would apply only to these specific settlement proceeds. If enacted, SB 419 should take effect on the earliest available date in order to ensure that the State and its subdivisions are ready to receive the 2022 payments.

For all the foregoing reasons, I urge a favorable report on SB 419.

cc: Finance Committee Members

SB0419-FIN_MACo_SUP.pdf

Uploaded by: D'Paul Nibber

Position: FAV



Senate Bill 419

Opioid Restitution Fund - Appropriation of Settlement Funds

MACo Position: **SUPPORT**

To: Finance Committee

Date: February 22, 2022

From: D'Paul Nibber

The Maryland Association of Counties (MACo) **SUPPORTS** SB 419. This bill would, among other provisions, codify an agreement developed by the Maryland Attorney General and Maryland's political subdivisions regarding the allocation of funds from several opioid medication-related settlements.

In September of 2021, the State of Maryland entered into settlement agreements with opioids manufacturer Johnson & Johnson and three major opioids distributors, McKesson, AmerisourceBergen, and Cardinal Health. The terms of the landmark settlements tied total funds recoverable to county and municipality participation. At Maryland Attorney General Brian Frosh's urging, MACo worked alongside the Maryland Municipal League to convene a workgroup charged with creating an equitable division of the settlement funds and encouraging local government participation in the settlements.

The resulting division of funds agreement is the subject of SB 419. As of January of this year, 58 of Maryland's 60 qualifying subdivisions had elected to participate in the agreement. This includes every county in the state, excepting Baltimore City, whose unique challenges rendered them a poor fit for its timetable and provisions. The terms of the agreement reflect substantial hours of good faith negotiations to ensure counties and municipalities have adequate resources to address the worsening opioid epidemic and are not mired in needless "red tape." Ultimately, the funds received by Maryland's counties will be used to save lives through countless needed interventions, including the construction of crisis intervention teams, the hiring of peer recovery specialists, and additional naloxone training and distribution.

This bill will bolster the frontline response to the opioid epidemic provided by Maryland's county officials, resulting in lives saved. For this reason, MACo **SUPPORTS** SB 419 and urges a **FAVORABLE** report.

SB 419_CEGardner_fav.pdf

Uploaded by: Jan Gardner

Position: FAV



JAN H. GARDNER
Frederick County
Executive

SB 419

**Opioid Restitution Fund –
Appropriation of Settlement
Funds**

County Position: FAVORABLE

Date: February 22, 2022
Committee: Finance

Frederick County Executive Jan Gardner urges a **FAVORABLE** report for Senate Bill 419 – Opioid Restitution Fund – Appropriation of Settlement Funds.

As have other Maryland jurisdictions, Frederick County has devoted a tremendous amount of resources to the opioid crisis to help residents with educational initiatives and assistance in recovery. Opioid addiction affects many lives and there has been an increase in opioid-related overdoses during the pandemic. A range of tools and approaches are necessary to halt the illegal distribution of drugs and help residents achieve recovery.

County Executive Gardner supports the provisions in the proposed legislation that:

- Implements, as agreed to by the State and its political subdivisions, the allocation and distribution of state funds received from settlements with opioid manufacturers and those associated with the industry;
- Requires the Opioid Restitution Fund and grant program to distribute funds to local governments as specified by the State-Subdivision Agreement;
- Ensures local governments will have the ability to supplement resources in a way that expands services and treatment, supports preventative programs and education, as well enables training and enforcement of laws related to opioid prescriptions and sales; and
- Supports local governments in their efforts to help residents achieve recovery, prevent opioid use, and halt the illegal distribution and sales of these drugs.

Frederick County Executive Gardner urges a **FAVORABLE** report for Senate Bill 419.

BaltimoreCounty_FAV_SB0419.pdf

Uploaded by: Joel Beller

Position: FAV



JOHN A. OLSZEWSKI, JR.
County Executive

JOEL N. BELLER
Acting Director of Government Affairs

JOSHUA M. GREENBERG
Associate Director of Government Affairs

MIA R. GOGEL
Associate Director of Government Affairs

BILL NO.: Senate Bill 419

TITLE: Opioid Restitution Fund - Appropriation of Settlement Funds and Grant Program

SPONSOR: Senator Feldman

COMMITTEE: Finance

POSITION: **SUPPORT**

DATE: February 22, 2022

Baltimore County **SUPPORTS** Senate Bill 419 – Opioid Restitution Fund - Appropriation of Settlement Funds and Grant Program. This legislation would require funds from the Opioid Restitution Fund be disbursed in accordance with the State-Subdivision Agreement of January 21, 2022.

Last year, the State of Maryland and local jurisdictions that have been impacted by the ongoing opioid crisis won a hard-fought legal battle to hold the corporations responsible accountable. As a result of the judgement, plaintiffs won a significant settlement to be disbursed to the State and political subdivisions according to the structure of the settlement and determinations made by the State Attorney General. The Opioid Restitution Fund was created to ensure that funds received as a result of the settlement are put towards programs which serve to address the significant damage brought upon residents and communities by the irresponsible conduct of opioid manufacturers. The State-Subdivision Agreement of January 21, 2022 reflects the result of discussions between the State and local jurisdictions to disburse funds in a manner agreed upon by all parties involved.

Senate Bill 419 ensures that, when settlement funds are provided by the State, those funds are disseminated according to the agreement reached between the jurisdictions of Maryland and the State.

Accordingly, Baltimore County requests a **FAVORABLE** report on SB 419. For more information, please contact Joel Beller, Acting Director of Government Affairs at jbeller@baltimorecountymd.gov.

CEBall_SB419_Support_Opioid Restitution Fund_Final

Uploaded by: Meghan Lynch

Position: FAV



HOWARD COUNTY OFFICE OF COUNTY EXECUTIVE

3430 Courthouse Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2013 Voice/Relay

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February 22, 2022

Senator Delores Kelley, Chair
Senate Finance Committee
Miller Senate Office Building, 3 East
Annapolis, MD 21401

Re: Testimony **IN SUPPORT** of Senate Bill 419: Opioid Restitution Fund – Appropriation of Settlement Funds

Dear Chair Kelley, Vice Chair Feldman, and Members of the Committee,

Though Howard County has seen a 27 percent decrease in nonfatal overdoses from 2017 through 2021, drug overdoses continue to hit our state and nation hard. Recent data from the Centers for Disease Control (CDC) show that from April 2020 to April 2021, overdose deaths rose 21 percent in Maryland. The CDC also reports that during the same time period, nationally more than 100,000 people died of drug overdoses. This is a new record high, with overdose deaths rising nearly 30 percent in just one year.

Senate Bill 419, introduced by Senator Feldman, would require the appropriation of certain funds from the Opioid Restitution Fund to be made in accordance with certain settlement agreements. In May 2019, I announced that Howard County would be formally suing opioid makers and distributors in Circuit Court holding them accountable for their role in causing the epidemic. As part of the Multi District Litigation, our case is being heard in federal court in Ohio. The recent settlements will provide an estimated \$12.8 million to Howard County over an eighteen-year period to fight against the harms opioids have caused our community.

Howard County has taken steps to expand access to life-saving treatment and developing solutions to have a more robust overdose response strategy. We are pleased that these companies are being held accountable for their unscrupulous actions and that our residents impacted by the opioid crisis will receive the financial support and collective action towards recovery they deserve. It is critical that we continue to push forward and ensure these companies remain liable for the immense damage they have caused to families around Howard County and our state.

For these and many more reasons, I urge a favorable report on SB 419.

All the Best,

Calvin Ball
Howard County Executive

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Uploaded by: Heather Shek

Position: INFO

STATE OF MARYLAND
OFFICE OF THE GOVERNOR
OPIOID OPERATIONAL COMMAND CENTER



ROBIN E. RICKARD
EXECUTIVE DIRECTOR
100 COMMUNITY PLACE
CROWNSVILLE, MARYLAND 21032

February 22, 2022

The Honorable Dolores G. Kelley
Chair, Senate Finance Committee
3 East, Miller Senate Office Building
Annapolis, MD 21401-1991

RE: SB 419 - Opioid Restitution Fund - Appropriation of Settlement Funds and Grant Program - Letter of Information

Dear Chair Kelley and Committee Members:

The Opioid Operational Command Center (OCCC) is submitting this letter of information for Senate Bill (SB) 419 – Opioid Restitution Fund - Appropriation of Settlement Fund and Grant Program.

According to House Bill 1274 (2019), which established the Opioid Restitution Fund (ORF), the Governor is required to develop “goals, objectives, and indicators” for the use of any funding received through the ORF. Additionally, this funding must be made in accordance with the state budget. As such, Governor Hogan designated the OCCC as the entity responsible for administering funds that the state receives from legal settlements with pharmaceutical manufacturers and distributors to mitigate harms associated with the opioid crisis.

SB 419 requires the Secretary of Health to establish and administer a grant program for the distribution of certain opioid restitution funds to political subdivisions. Recognizing that the State of Maryland expects to receive an influx of funding through the ORF within the next calendar year, the OCCC has worked to ensure that our office is structured to support administering this funding. These efforts include creating staffing positions to support grant distribution and other operations, which will be commensurate with the level of funding the State of Maryland receives.

Additionally, SB 419 requires that appropriations from the ORF in the state budget shall be made in accordance with the settlement framework outlined in the State-Subdivision Agreement of January 21, 2022. This agreement outlines the distribution percentages that the state and local municipalities are eligible to receive, and requires the establishment of non-competitive and discretionary grants programs. The OCCC has the infrastructure in place to administer two distinct grants programs. The OCCC block grant is non-competitive and is distributed to local jurisdictions based on an applied formula that factors in population and fatality rates. The competitive grant program distributes funding to the highest-scoring proposals received from state and local governments and private, community-based organizations.

Given the efforts that the OOCC has undertaken to prepare for the funding received to the ORF, we are well positioned to carry out the provisions outlined in the State-Subdivision Agreement. We hope you find this information helpful. If you would like to discuss this further, please contact Marianne Gibson, OOCC Deputy Director, at 443-381-4377 or marianne.gibson@maryland.gov.

Sincerely,

A handwritten signature in blue ink that reads "Robin E. Rickard". The signature is written in a cursive style with a large initial "R".

Robin E. Rickard
Executive Director
Opioid Operational Command Center