

Department of Legislative Services  
Maryland General Assembly

FISCAL NOTE  
Revised

House Bill 568 (Delegate Rosenberg, *et al.*)  
Appropriations

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Cigarette Restitution Fund

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This bill creates a Cigarette Restitution Fund to be administered by the Department of Health and Mental Hygiene (DHMH). The fund would consist of funds received by the State from any source as a direct or indirect result of any judgment against or settlement with tobacco product manufacturers, tobacco research associations, or any other person in the tobacco industry relating to litigation, administrative proceedings, or any other claims made or prosecuted by the State.

This bill is effective July 1, 1998.

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Fiscal Summary

**State Effect:** Potential significant foregone general fund revenues, with a corresponding increase in special fund revenues. Indeterminate impact on expenditures.

**Local Effect:** None.

**Small Business Effect:** Potential meaningful impact on small businesses.

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Fiscal Analysis

**Bill Summary:** The Cigarette Restitution Fund would be a continuing, non-lapsing fund from which any expenditures would be made by an appropriation in the State budget or by a budget amendment as approved by the Legislative Policy Committee. In addition to administering the fund, the Secretary of DHMH is required to: (1) develop plans, prepare and submit proposals to the Governor regarding the use of available funds, and undertake any necessary actions to obtain for the fund all judgment awards to which citizens of the State have a legal entitlement; (2) assess the needs of State citizens and develop recommendations

for the allocation and disbursement of funds in accordance with those needs; and (3) conduct public hearings at least twice a year as well as perform other duties as assigned by the Governor.

Revenues from the fund would be expended subject to any restrictions or limitations that are expressly provided by statute or required as a condition of the acceptance of funds. Disbursements from the fund for programs funded by the State or with federal funds administered by the State would be used to supplement, and not supplant, funds otherwise available for these programs under federal or State law.

The bill creates a 13-member Cigarette Restitution Fund Advisory Panel. By October of each year, the panel must: (1) assess and determine the needs of State citizens and develop recommendations for the allocation and disbursement of funds; and (2) prepare and submit to the Secretary of DHMH a budget proposal for the next fiscal year that includes the estimated available funds and proposed expenditures from the fund. The proposed expenditures must be for the following purposes: (1) the reduction of the use of tobacco products by minors; (2) alternative crop uses for agricultural land currently used to grow tobacco; (3) public education campaigns to decrease tobacco use; (4) smoking cessation programs; (5) enforcement of laws governing tobacco sales; (6) the Maryland Health Care Foundation; (7) prevention and treatment research relating to tobacco product use and tobacco control; and (8) any other public purpose. Any available funds not allocated for these purposes may be spent on other purposes as permitted by law.

**State Effect:** As a result of this bill, any recovery from the State's pending lawsuit against tobacco product manufacturers, State of Maryland v. Philip Morris, et al., would go to the Cigarette Restitution Fund created by this bill. The potential maximum recovery from the lawsuit is \$3 billion. (Nine counts that were dismissed from the lawsuit sought an additional \$10 billion in punitive damages. The Office of the Attorney General intends to attempt to rejoin these counts to the case, if possible.)

It is assumed that the bill is intended to provide that any revenues received by the State from a federal tobacco settlement or federal legislation would be placed in the Cigarette Restitution Fund. If enacted, the proposed federal tobacco settlement currently being discussed, which is a starting point for any federal tobacco legislation, would supercede the State's pending lawsuit and that lawsuit would essentially be settled. The amount of revenues that the State would receive under the current proposed federal settlement would depend on a variety of factors. These factors include the impact of a settlement on manufacturers' prices and consumer consumption, the distribution of revenues to the State as determined by the U.S. Congress, and the portion of revenues that would be claimed by the federal government as Medicaid recovery. Any specific amount of revenues that may be

distributed to the fund cannot be reliably estimated at this time.

Any expenditures from the restitution fund provided for the purposes as outlined in this bill would depend on the amount of revenues that may be provided to the fund from the State lawsuit or any federal settlement or legislation. Any increase in expenditures for DHMH resulting from administration of the fund will also depend on the amount of revenues the fund receives and the distribution of those revenues.

It is assumed that members of the Cigarette Restitution Fund Advisory Panel would be reimbursed for expenditures under the standard State travel regulations. Any expenditures would depend upon the time, location, and frequency of advisory panel meetings; it is assumed that these expenses would be minimal and could be absorbed within the existing budgeted resources of the governmental entities represented on the panel.

**Small Business Effect:** This bill could positively affect small business farmers by providing that revenues distributed to a Cigarette Restitution Fund may be distributed for the determination of alternative crop uses for agricultural land currently used to grow tobacco. Any revenues distributed from the fund to the Maryland Health Care Foundation could also positively affect that non-profit organization. Any specific impact will depend on the amount of revenues the fund receives and the actual distribution of those revenues.

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**Information Sources:** Department of Health and Mental Hygiene, Department of Legislative Services

**Fiscal Note History:** First Reader - March 11, 1998  
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Analysis by: Ryan Bishop  
Reviewed by: John Rixey

Direct Inquiries to:  
John Rixey, Coordinating Analyst  
(410) 841-3710  
(301) 858-3710