

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE

Senate Bill 560 (Senator Currie, *et al.*)
Budget and Taxation

Cigarette Restitution Fund - Expenditures for Public Health Objectives Only

This bill alters the authorized expenditures from the Cigarette Restitution Fund to prohibit disbursements for any purpose other than enumerated public health- and tobacco-related objectives. The bill also requires the Governor to include in the annual budget bill appropriations from the fund equivalent to the greater of \$100 million or 100% of the estimated available funds.

The bill applies to any funds estimated in the fiscal 2001 State budget and appropriated to the Cigarette Restitution Fund.

The bill takes effect July 1, 2000.

Fiscal Summary

State Effect: Potential general fund expenditure increase of \$49.9 million in FY 2001. Under the Administration's consumption and legal fee estimates, potential increased special fund expenditures of \$49.7 million.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: See below.

Background: In response to the 1998 tobacco settlement agreement, Chapters 172 and 173

of 1999 created the Cigarette Restitution Fund for settlement payments. All payments received by the State related to the tobacco settlement are to be placed into this nonlapsing fund. Monies in the fund can only be spent through appropriations in the annual State budget, and a minimum of \$100 million or 90% of the funds available must be appropriated. In addition, 50% of the funds must be appropriated for the following specific purposes:

- reduction in tobacco use by youth;
- tobacco control programs in schools;
- smoking cessation programs;
- enforcement of tobacco sales restrictions;
- primary health care in rural areas;
- programs concerning cancer, heart disease, lung disease, and tobacco control;
- substance abuse treatment and prevention;
- Maryland Health Care Foundation; and
- crop conversion.

For each program receiving funds, statements of vision, mission, goals, and objectives, along with performance indicators are to be included with the budget submission, and an annual report is required to evaluate the effectiveness of the prior year's spending.

In the summer of 1999, the Governor announced a ten-year spending plan that conforms to the broad outline of legislative priorities in the Cigarette Restitution Act. This plan makes Maryland one of the few states, of those where spending decisions have been made, to devote most of the settlement funds to health- and tobacco-related causes.

Some of the programs in the Governor's proposal build upon existing programs. For example, the Department of Health and Mental Hygiene (DHMH) already has about a \$17 million cancer control program and a \$1 million tobacco control program. Other programs, without any prior funding, will be established with settlement funds.

By executive order in 1999, the Governor created three task forces to develop a detailed spending plan in each priority area related to tobacco. These task forces are: (1) Task Force to End Smoking in Maryland; (2) Task Force to Conquer Cancer in Maryland; and (3) Task

Force on Tobacco Crop Conversion in Maryland. Most of the task forces' recommendations have been incorporated into the 2001 allowance. The fiscal 2001 allowance for the Cigarette Restitution Fund includes \$150.5 million.

State Fiscal Effect: Though the Cigarette Restitution Act mandates that most spending should be focused on health- and tobacco-related issues, the Governor still has considerable latitude in constructing a budget proposal as long as at least 50% of any appropriation of settlement funds goes to some of the nine priorities. The Governor's proposed fiscal 2001 budget meets this requirement, with \$100.5 million, or 67% of the settlement funds, allocated to health- and tobacco-related programs.

Under the Administration's proposed plan for the Cigarette Restitution Fund, approximately \$199.3 million will be available in fiscal 2001. The proposed fiscal 2001 State budget includes \$150.4 million for the fund - \$100.5 million on health- and tobacco-related programs and \$49.9 million on education-related programs. While this estimate provides a base for evaluating potential revenue streams from the settlement, there are two caveats to be considered:

- **Attorney Fees:** The Administration assumes that attorney fees are only 6.25% of the settlement funds. However, the level of attorney fees is in litigation. The contract between the State of Maryland and the law firm of Peter Angelos stated that the firm would receive 25% of the award. However, the Attorney General contends that this fee is unreasonable and that fees should first be paid out of a separate fund established by the Master Settlement Agreement. Until the matter is settled, 25% of the settlement funds are put in escrow.
- **Volume Adjustment:** The Administration assumes a 3.5% decline in 2001 and an average decrease of 2% in subsequent years. This is the historical trend without price changes. However, declines in consumption could be greater because the collective impact of higher taxes, higher prices, increased enforcement, and public health programs is likely to have an impact on national consumption.

The Governor's fiscal 2001 allowance for the fund is based upon these assumptions. Under these assumptions, there would be a fund balance of \$49.7 million at the end of fiscal 2001. However, if legal fees for example are 12.5%, there would be a fund balance of \$29.6 million at the end of fiscal 2001.

The bill requires that \$100 million or all of the funds available in the fund be spent on spending priorities outlined above. The bill would prohibit any funds being spent on any programs other than health- and tobacco-related programs.

As result of the bill's requirements, general funds may be needed to fund the \$49.9 million in education-related programs that are being funded through the Cigarette Restitution Fund in the fiscal 2001 allowance. Also, under the Administration's assumptions, there would be an additional \$99.6 million available for spending from the Cigarette Restitution fund in fiscal 2001 for health- and tobacco-related purposes (\$49.7 million fund balance and \$49.6 million currently budgeted for education-related programs).

Additional Information

Prior Introductions: None.

Cross File: HB 1178 (Delegate R. Baker) - Environmental Matters.

Information Source(s): Comptroller of the Treasury (Alcohol and Tobacco Division), Department of Health and Mental Hygiene, Department of Legislative Services

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