Department of Legislative Services

Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

Senate Bill 513 (Senator McFadden, *et al.*)
Budget and Taxation

Cigarette Restitution Fund - Tobacco Prevention - Funding

This bill requires that, beginning in fiscal 2012, the Governor increase the minimum annual funding level for State tobacco control programs from $21 million to an amount recommended by the Centers for Disease Control and Prevention for comprehensive tobacco control programs in the State. In addition, the bill increases the tobacco tax rate for other tobacco products, or OTPs, from 15% to 25% of the wholesale price of tobacco products. OTP tax revenue is redistributed to the Cigarette Restitution Fund. That revenue as well as existing strategic contribution payments must be used for smoking cessation and prevention programs.

The bill takes effect July 1, 2008.

Fiscal Summary

State Effect: General fund revenues could decrease by $10.3 million in FY 2009 due to the redistribution of OTP tax revenues into CRF instead of the general fund while Transportation Trust Fund revenues would increase minimally. CRF revenues would increase by $16.5 million in FY 2009 due to the higher OTP tax rate and redistribution of OTP tax revenues into CRF. CRF expenditures would increase by the same amount in FY 2009, due to the requirement that these monies be spent on tobacco control and cessation programs *only*. Total expenditures would increase by $47.0 million in FY 2012 to meet CDC's recommended funding level for comprehensive tobacco control programs in the State. General fund expenditures would increase by $10.0 million each year through FY 2011 due to the limitation on use of existing strategic contribution payments. In FY 2012, general fund expenditures would increase by $20.7 million to meet the funding mandates as CRF revenues would not be sufficient. **This bill establishes a mandated appropriation beginning in FY 2012.**

($ in millions)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
GF Revenue	($10.3)	($11.0)	($11.9)	($12.7)	($13.7)
SF Revenue	16.5	17.4	18.3	19.3	20.4
GF Expenditure	10.0	10.0	10.0	27.7	28.4
SF Expenditure	16.5	17.4	18.3	19.3	20.4
Net Effect	($20.3)	($21.0)	($21.9)	($40.4)	($42.1)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: Minimal for small retailers who derive business from customers who purchase other tobacco products.

Analysis

Current Law: CRF is a special, nonlapsing fund supported by revenue from a settlement with the five major tobacco companies. Under the Master Settlement Agreement participating manufacturers agreed to compensate the states for smoking-related medical costs and conform to certain marketing restrictions. CRF monies must be used to fund • the Tobacco Use Prevention and Cessation Program; • the Cancer Prevention, Education, Screening, and Treatment Program; and • other programs that serve health-related purposes as specified in statute. For each fiscal year for which CRF appropriations are made, at least 50% of the appropriations must be for these purposes.

The Governor has to include at least $21 million in the annual budget for activities aimed at reducing tobacco use in Maryland as recommended by the Centers for Disease Control and Prevention.

"Other tobacco product" means • any cigar or roll for smoking, other than a cigarette, made in whole or in part of tobacco; or • any other tobacco or product made primarily from tobacco, other than a cigarette, that is intended for consumption by smoking or chewing or as snuff.

Cigars, pipe tobacco, chewing tobacco, and other tobacco products are taxed at 15% of their wholesale price. OTP tax revenues accrue to the general fund. Beginning July 1, 2008, a portion of sales tax revenues is credited to the Transportation Trust Fund.

Background: CDC advises that, if every state funded tobacco prevention and cessation programs at recommended levels, in five years there would be five million fewer smokers in the United States. CDC recommended that Maryland spend $63.3 million in 2008 on such programs.

The distribution of MSA funds among states is determined by formula, with Maryland receiving 2.26% of MSA monies which are adjusted for inflation, volume, and prior settlements. In addition, the State collects 3.3% of monies from the Strategic Contribution Fund, distributed according to each state's contribution toward resolution of the state lawsuits against the major tobacco manufactures; this amounts to approximately $28.0 million a year. **Exhibit 1** provides State CRF revenue and expenditure detail for fiscal 2007 to 2009.

Exhibit 1
Cigarette Restitution Fund Budget Estimates
Fiscal 2007-2009
($ in Millions)

	2007 Actual	2008 Working	2009 Allowance
Beginning Fund Balance	**$4.5**	**$12.9**	**$4.2**
Settlement Payments	154.5	150.7	151.5
NPM and Other Shortfalls in Payments[1]	-16.1	-16.5	-16.5
Other Adjustments	7.7	36.1	35.7
Subtotal	**$150.7**	**$183.2**	**$175.0**
Prior Year Recoveries	1.1	1.0	
Total Available Revenue	**$151.8**	**$184.2**	**$175.0**
Health			
Tobacco Use Prevention/Cessation	17.8	17.3	17.3
Cancer Prevention, Evaluation, and Treatment	28.1	25.4	25.5
Substance Abuse	17.1	17.1	17.1
Medicaid	63.7	106.7	97.5
Administration	0.5	1.0	1.0
Subtotal	**$127.1**	**$167.5**	**$158.5**
Other			
Aid to Nonpublic Schools	4.0	3.7	3.7
Crop Conversion	7.6	8.3	8.5
Attorney General	0.2	0.4	0.5
Subtotal	**$11.8**	**$12.4**	**$12.7**
Total Expenses	**$138.9**	**$179.9**	**$171.1**
Ending Fund Balance	**$12.9**	**$4.2**	**$3.9**

NPM: Nonparticipating Manufacturer
[1]The NPM adjustment represents $15.7 million of this $16.1 million in fiscal 2007; an estimate of $16.5 million is used in fiscal 2008 and 2009.
Note: Numbers may not sum to total due to rounding.

State Fiscal Effect: The bill would increase the OTP tax rate and deposit OTP revenues into CRF instead of the general fund beginning July 1, 2008. As a result, net general fund revenues would decrease $10.3 million in fiscal 2009. CRF revenues would increase $16.5 million in fiscal 2009 and TTF revenues would increase minimally.

Exhibit 2 shows the impact of the bill in fiscal 2009 through 2013. Future years reflect inflation. Since the bill requires that these monies be spent on tobacco prevention and cessation programs *only*, this estimate assumes that the new CRF revenue is spent the same year it is collected.

Exhibit 2
Impact of OTP Tax Increases and Redistribution
Fiscal 2009-2013
($ in Thousands)

	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
General Fund:					
OTP Tax	($10,421)	($11,182)	($11,998)	($12,874)	($13,814)
Sales Tax	147	143	137	130	121
Net Impact GF	**($10,274)**	**($11,039)**	**($11,861)**	**($12,744)**	**($13,692)**
Special Funds:					
CRF	$16,468	$17,373	$18,329	$19,337	$20,401
TTF	10	9	9	8	8

Strategic contribution payments to CRF are expected to be about $28 million in fiscal 2009 and subsequent years – until they discontinue in fiscal 2017. Due to the redirection of strategic contribution payments from CRF *as a whole* to tobacco prevention and cessation programs *specifically*, general fund expenditures would have to shift and/or be increased in fiscal 2009 to supplement spending on other programs funded in part by the strategic contribution payments through CRF. Other programs that benefit from strategic contribution payments include Medicaid; cancer prevention, evaluation, and treatment; and substance abuse. Assuming no reduction in expenditures for these purposes, general fund expenditures would need to increase by $10.0 million a year through fiscal 2011.

Beginning in fiscal 2012, expenditures for tobacco control programs would increase by $47,042,871 to meet CDC's recommended funding level for comprehensive tobacco control programs in the State. For purposes of this analysis, Legislative Services has used the CDC recommended annual funding level not the minimum guideline. CDC recommended that Maryland spend $63.3 million annually on these programs in fiscal

2008. Adjusting this amount by the average annual Consumer Price Index of 2.6% over the past 10 years would yield a CDC recommendation of $68,042,871 in fiscal 2012. Although only $17.3 million of CRF monies has been allocated for tobacco cessation and prevention in the fiscal 2009 budget, historically, $1.1 million in general funds has been used to bring the funding level up to $18.4 million, which falls short of the $21.0 million mandate. However, this estimate reflects the difference between CDC's recommendation and the $21.0 million amount mandated by law. For this analysis, it is assumed that all CRF revenues required to be spent on tobacco control programs would be expended for that purpose. However, as CRF revenues alone would not be sufficient to cover the mandated spending level, general funds would be needed to make up the difference. Thus, in fiscal 2012, the new CRF revenues of $19.3 million would be supplemented by $20.7 million in general funds in order to provide the additional $47.0 million necessary to meet the $68.0 million CDC recommendation.

Additional Information

Prior Introductions: None.

Cross File: HB 1095 (Delegate Rosenberg, *et al.*) – Health and Government Operations and Appropriations.

Information Source(s): Department of Health and Mental Hygiene, Department of Legislative Services

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