

**LEGISLATIVE FISCAL OFFICE**  
**Fiscal Note**



Fiscal Note On: **HB 641** HLS 13RS 1010

Bill Text Version: **ORIGINAL**

Opp. Chamb. Action:

Proposed Amd.:

Sub. Bill For.:

|  |                                |
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| <b>Date:</b> April 24, 2013 11:37 AM                   | <b>Author:</b> THOMPSON, J     |
| <b>Dept./Agy.:</b> Revenue/ATC/Attorney General        | <b>Analyst:</b> Deborah Vivien |
| <b>Subject:</b> Tobacco Enforcement to comply with MSA |                                |

SALES/TOBACCO DEALERS OR -\$1,085,500 GF RV See Note  
Provides relative to tobacco enforcement

Current law provides for parameters and enforcement to comply with the Master Settlement Agreement as it relates to the collection and imposition of excise tax on tobacco products. The Master Settlement Agreement provides funding, which the state has pledged to securitized debt, the LA Fund and TOPS. The treasurer is directed to transfer \$400,000 from the state general fund to the Tobacco Settlement Enforcement Fund for use by the Department of Justice in enforcing the Master Settlement Agreement.

Proposed law supplements enforcement and reporting, permitting and bonding requirements related to the tobacco tax. The provisions are expected to serve as compliance with the term sheet of the Tobacco Arbitration Settlement and maintain the state's standing in the Master Settlement Agreement. The amount to be deposited to the Tobacco Settlement Enforcement Fund is increased by \$1,085,500 to \$1,485,500 for use by the Department of Justice.

| <b>EXPENDITURES</b> | <b>2013-14</b> | <b>2014-15</b>  | <b>2015-16</b>  | <b>2016-17</b>  | <b>2017-18</b>  | <b>5 -YEAR TOTAL</b> |
|---------------------|----------------|-----------------|-----------------|-----------------|-----------------|----------------------|
| State Gen. Fd.      | INCREASE       | \$75,000        | \$75,000        | \$75,000        | \$75,000        | <b>\$300,000</b>     |
| Agy. Self-Gen.      | \$0            | \$0             | \$0             | \$0             | \$0             | <b>\$0</b>           |
| Ded./Other          | \$0            | \$0             | \$0             | \$0             | \$0             | <b>\$0</b>           |
| Federal Funds       | \$0            | \$0             | \$0             | \$0             | \$0             | <b>\$0</b>           |
| Local Funds         | <u>\$0</u>     | <u>\$0</u>      | <u>\$0</u>      | <u>\$0</u>      | <u>\$0</u>      | <b>\$0</b>           |
| <b>Annual Total</b> |                | <b>\$75,000</b> | <b>\$75,000</b> | <b>\$75,000</b> | <b>\$75,000</b> | <b>\$300,000</b>     |

  

| <b>REVENUES</b>     | <b>2013-14</b> | <b>2014-15</b> | <b>2015-16</b> | <b>2016-17</b> | <b>2017-18</b> | <b>5 -YEAR TOTAL</b> |
|---------------------|----------------|----------------|----------------|----------------|----------------|----------------------|
| State Gen. Fd.      | (\$1,085,500)  | (\$1,085,500)  | (\$1,085,500)  | (\$1,085,500)  | (\$1,085,500)  | <b>(\$5,427,500)</b> |
| Agy. Self-Gen.      | \$0            | \$0            | \$0            | \$0            | \$0            | <b>\$0</b>           |
| Ded./Other          | \$1,085,500    | \$1,085,500    | \$1,085,500    | \$1,085,500    | \$1,085,500    | <b>\$5,427,500</b>   |
| Federal Funds       | \$0            | \$0            | \$0            | \$0            | \$0            | <b>\$0</b>           |
| Local Funds         | <u>\$0</u>     | <u>\$0</u>     | <u>\$0</u>     | <u>\$0</u>     | <u>\$0</u>     | <b>\$0</b>           |
| <b>Annual Total</b> | <b>\$0</b>     | <b>\$0</b>     | <b>\$0</b>     | <b>\$0</b>     | <b>\$0</b>     | <b>\$0</b>           |

**EXPENDITURE EXPLANATION**

The three areas with additional administrative duties regarding this bill are the Department of Revenue - Tax Collection Program (LDR), Alcohol and Tobacco Control (ATC), and the Attorney General (AG). According to the agency, additional duties of the ATC are expected with increased enforcement (absorbed in current budget) and providing a permit for stamping agents and exporters (system adjustment of \$25,000 in year 1). LDR is required to compile numerous forms that are mandated by this bill in addition to the forms required in payment of tobacco taxes, which is currently conducted on paper forms with electronic payment capabilities. LDR has authority to require electronic filing of these forms for better reconciliation efforts and data capture, but has not been funded to do so. To continue with the current manual process, LDR estimates a workload cost of \$300,000 in year 1 for system adjustments and form related expenses. To adapt the system to an electronic format, LDR estimates an increased cost of \$1 million in year 1. LDR will also require at least one additional auditor with tobacco specialization to ensure enforcement at a cost of about \$75,000 per year.

The AG will administer a surety bond offered by non-participating manufacturers to protect escrow payments which are already administered by the AG, apply more diligent enforcement efforts and accommodate additional documentation. These efforts can be accomplished within the existing agency budget as proposed in HB1 but will require 5 positions (2 CPAs, 1 attorney, 1 paralegal and 1 investigator). However, the AG will also receive \$1,085,500 in new funding from this bill due to the increased deposit of SGF into the Tobacco Settlement Enforcement Fund for continuing arbitration expenses.

**REVENUE EXPLANATION**

Enforcement of the MSA per its provisions secures the annual MSA payment for the state and complies with the agreement as stipulated in an arbitration settlement recently signed by the state. The dispute that prompted this agreement was, in part, due to a claimed lack of enforcement by the state regarding the MSA. This bill should help mitigate future disputes regarding MSA payments to the state.

The Tobacco Settlement Enforcement Fund is currently appropriated to the Department of Justice. At this time, no funds are transferred to LDR or ATC for enforcement of tax collection and licensing, which are also components of the MSA. One-quarter of one-twentieth of one cent per cigarette of the tobacco tax is dedicated to the Tobacco Regulation Enforcement Fund for use by ATC in enforcement and retirement benefits. Most of the enforcement mechanisms in the bill focus on market share of non-participating manufacturers, though some additional tobacco tax avoidance may be detected. To the extent this occurs, SGF and Statutory Dedication revenue will increase.

The bill directs the treasurer to transfer \$1,085,500 from the state general fund to the Tobacco Settlement Enforcement Fund in addition to the \$400,000 directed by current law (total of \$1,485,500). The use of the fund for enforcement of the Master Settlement Agreement provisions by the Department of Justice is not changed.

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|---|----------------------------|--|
| <u>Senate</u>   | <u>Dual Referral Rules</u> | <u>House</u>   |
| <input type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H}       |                            | <input type="checkbox"/> 6.8(F) >= \$500,000 Annual Fiscal Cost {S}                        |
| <input type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H} |                            | <input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S} |

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