

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 7850

BILL NUMBER: HB 1002

NOTE PREPARED: Jan 21, 2003

BILL AMENDED:

SUBJECT: Securitization of Tobacco Settlement Funds.

FIRST AUTHOR: Rep. Brown C

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED:

X

**GENERAL
DEDICATED
FEDERAL**

IMPACT: State

Summary of Legislation: This bill establishes the Tobacco Settlement Authority and provides for the sale of bonds payable from future tobacco settlement payments to the state. The bill makes related changes in the statute governing distributions from the Tobacco Master Settlement Agreement Fund. It also appropriates money from the Tobacco Master Settlement Agreement Fund to the Tobacco Settlement Authority.

Effective Date: July 1, 2003.

Explanation of State Expenditures: This bill appropriates \$195 M in accumulated trust funds from the Tobacco Settlement Agreement Fund to the Indiana Tobacco Settlement Authority. These funds have accumulated in the "Trust Fund" under the current statute that requires 40% of the payments received by the state are not available for expenditure, transfer, or distribution.

The formula established by the bill would make all amounts accumulated in the trust fund available for appropriation, as well as 60% of the amount of the Tobacco Master Settlement Agreement annual distribution determined to be payable to the state. The State Budget Agency (SBA) estimates that after the \$195 M appropriation required by this bill, \$44.9 M from the accumulated trust would remain. This \$44.9 M would be available for appropriation in the upcoming biennium, as well as the 60% of the estimated payable of \$76.6M in FY 2004 and \$77.6 M in FY 2005.

Explanation of State Revenues: This bill creates the Tobacco Settlement Authority to assist in securitizing 40% of the revenue stream payable to the state from the Tobacco Master Settlement Agreement between the states and participating tobacco manufacturers. The Authority is established as a body corporate and politic. The governance of the Authority is by a 7-member board consisting of the Governor, Lieutenant Governor, the Treasurer of State, and 4 members appointed by the Governor (not more than two of whom may be members of the same political party). Four members of the Board constitute a quorum, and 4 affirmative votes are required for the Board to take action. Members of the Board are not eligible for compensation, but are entitled to reimbursement for actual expenses on the same basis as state employees.

The Authority may employ independent counsel, financial advisers, other agents, and employees necessary to carry out the operations of the Authority. Employees of the Authority are not considered to be state employees. The Authority must contract with an independent certified public accountant for an annual financial audit. Copies of the Authority's annual budget and financial report are to be submitted to the Budget Director, the Legislative Council and the State Board of Accounts. The Authority is prohibited from exercising the power of eminent domain and levying taxes.

The Authority may purchase from the state a portion of the amounts and revenues due to the state under the Tobacco Master Settlement Agreement. The Tobacco Settlement Authority is authorized to issue bonds in an amount appropriate to provide sufficient funds for payment of debt service, establishment of debt service or operating reserves to secure the bonds, and covering the cost of issuance of bonds, financing costs, and other expenditures necessary to carry out its purposes. The net proceeds of bonds issued by the Authority, with certain exceptions, are to be deposited in a fund to be specified by law. The \$195 M appropriated by this bill from the Tobacco Master Settlement Fund are to be deposited in the same fund.

The bill authorizes the state to sell and assign to the Authority all of the state's right to receive a 40% portion of the state's annual share of the revenues due to the state under the Tobacco Master Settlement Agreement. A sale and assignment of rights to this revenue is irrevocable.

The Public Finance Office has estimated that an issuance of \$706.3 M in bonds with a 35-year maturity would result in net proceeds of \$597.3 M. This estimate is based on the financial conditions in December of 2002 and the following assumptions: a liquidity reserve of \$55.0 M, capitalized interest of \$24.8 M, costs of issuance of \$7.1 M, an original issue discount of \$22.1 M, an interest rate of 6.73%, and an accelerated retirement of the bonds. Actual proceeds from the securitization process will depend on future market factors. The dollar amount of bond proceeds actually achieved under the terms of the bill will be dependent upon the length of time for which the bonds are issued, how the bonds are structured, and the yield available in the market at the time of issuance.

This bill does not provide for the expenditure of the proceeds of the bond issue, nor does the estimate above account for the investment earnings from the proceeds.

The bill provides for a transfer of revenues or income not required to meet the obligations of the Authority to the General Fund if directed by the Governor.

The bill provides for the dissolution of the Authority not later than two years from the final payment of its outstanding bonds and satisfaction of all other outstanding obligations. Upon dissolution, all of the Authority's property shall be transferred to the state, including the Authority's right to revenues due under the Tobacco Master Settlement Agreement.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: State Budget Agency.

Local Agencies Affected:

Information Sources: Mark Moore; David Reynolds, Deputy Director, State Budget Agency.

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