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: Feb 20, 2003
BILL AMENDED: Feb 17, 2003

SUBJECT: Securitization of Tobacco Settlement Funds.

FIRST AUTHOR: Rep. Brown C
FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED:
GENERAL
X DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: (Amended) 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 establishes procedures to be followed by the authority when entering into contracts for certain services related to the issuance and sale of bonds. The bill also makes related changes in the statute governing distributions from the Tobacco Master Settlement Agreement Fund. It makes certain continuing and temporary appropriations from the Tobacco Master Settlement Agreement Fund and authorizes the expenditure of money from the fund in excess of the statutory spending limit if the total of those appropriations exceeds that limit. The bill increases the income ceiling for eligibility for the Hoosier Rx program from 135% to 185% of the Federal Poverty Guideline. It also establishes a health professions scholarship program. The bill appropriates money from the Tobacco Master Settlement Agreement Fund to the Tobacco Settlement Authority.

Effective Date: July 1, 2003.

Explanation of State Expenditures: (Revised) This bill appropriates $120 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.

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 the balance of the Tobacco Master Settlement Agreement Fund will be $252.1 M at the end of FY 2003. After the $120 M appropriation required by this bill, $132.1 M from the accumulated trust would remain. This $132.1 M would be available for expenditure 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 as described below.

The bill makes the following annual appropriations:

Tobacco Master Settlement Agreement Fund Appropriation to :	FY 2004	FY2005
Tobacco Use Prevention & Cessation Trust Fund	$ 35 M	$ 35 M
Indiana Local Health Department Account	$ 3 M	$ 3 M
Indiana Children's Health Insurance Program (CHIP)	$ 33.6 M	$33.6 M
Developmentally Disabled Client Services	$ 30.3 M	$30.3 M
Division of Disability, Aging, and Disability Administration	$ 3 M	$ 3 M
Local Health Maintenance Programs	$ 1.4 M	$ 1.4 M
Community Health Centers	$ 15 M	$ 15 M
Indiana Prescription Drug Account	$ 20 M	$ 20 M
Nursing Scholarship Fund	$5 M	$5 M
Health Professions Scholarship Fund	$ 5 M	$5 M
Total Appropriations	$151.3 M	$151.3 M

The bill provides that if the trust funding formula (currently 40% of the Tobacco Settlement Agreement payment is designated to the Trust Fund and is unavailable for expenditure) does not allow for sufficient funds to make the appropriations listed above, the funds set aside for the Trust may be used to fund these appropriations with the exception of those portions of the payments that may have been sold for securitization purposes. If up to 80% of the Tobacco Settlement Agreement payments for the year do not provide sufficient funds and no money is available in the Trust Fund, the bill provides a methodology to determine how the available funds for the year should be allotted to each account.

Current Tobacco Master Settlement Agreement Funding Formula	FY 2004	FY 2005
Estimated Revenue	$ 127.65 M	$ 129.31 M
60% of Funds Received are Available for Expenditure (Current)	$ 76.59 M	$ 77.59 M
40% Designated for the Trust Fund (Current)	$ 51.06 M	$51.72 M

Proposed Tobacco Master Settlement Agreement Funding	FY 2004	FY 2005
Estimated Revenue	$ 127.65 M	$ 129.31 M
Funds Required to be Reserved due to Sale (20% Securitized)	$ 25.53 M	$ 25.86 M
Total Expenditures Allowed by this bill (80%)	$ 102.12 M	$ 103.45 M
Appropriations made by this bill	$ 151.3 M	$ 151.3 M
Total Funds to be drawn from Trust	$ 49.18 M	$ 47.85 M

The total funds required to be drawn from the Trust may be reduced if program expenditures do not require the full allocation of the appropriation. For example, if the CHIP program requires the level of funding estimated by the Office of Medicaid Policy and Planning (OMPP) of $23.1 M in FY 2004 and $25.8 M in FY 2005, the amount of funding required from the Trust Fund would be reduced by $10.5 in FY 2004 and $7.8 M in FY 2005. This situation could also occur with other annual appropriations. If all the annual appropriations are fully expended (disregarding potential earned interest), the Trust Fund activity would be as follows.

Trust Fund Beginning Balance, July 1, 2003	$ 252.1 M
Tobacco Settlement Authority Appropriation	$ 120 M
FY 2004 Funding required from Trust	$ 49.18 M
FY 2005 Funding Required from Trust	$ 47.85 M
Trust Fund Ending Balance, June 30, 2005	$ 35.07 M

The bill also provides enhanced funding for the existing Nursing Scholarship Program. As shown in the table above, the proposal adds an amount not to exceed $5 M to the Nursing Scholarship Program currently in place and administered by the State Student Assistance Commission (SSAC). The bill also establishes a new Health Professions Scholarship program to be funded with up to $5 M annually. This program is also to be administered by SSAC and is intended to assist students in programs providing training in the allied healthcare professions.

The bill also provides for an increase in the eligibility standard of the Prescription Drug program (Hoosier Rx). The bill would provide for an increase from 135% of the federal poverty level (FPL) to 185% FPL to be effective on July 1, 2003. The Hoosier Rx actuaries provided an estimate of program expenditures assuming that point-of-sale benefits were available and the program was marketed to increase the enrollment at the existing eligibility level of 135% of the FPL to 30,000 individuals by the end of FY 2003. If the program served the total 30,000 individuals, the estimated expenditures for the program with no changes in eligibility or benefits would be $23.3 M for FY 2004 and $27.6 M for FY 2005. The appropriated level of funds is currently $20 M. The program is projected to exceed its funding if no changes are made to eligibility or benefits and the enrollment target is met. However, the enrollment as of February 2003 was 12,342, well below the 30,000 enrollment projection, and only $4.2M has been expended through February 15th. FSSA is projecting an expenditure of $13 M for the year.

Program actuaries have estimated that expansion of the eligibility standard to 185% of the FPL with a $500 maximum benefit level could cost an additional $9.3 M in FY 2004 and $17 M in FY 2005. This estimate is based on the assumption that 30,000 individuals use the program at the 135% FPL level. The ultimate cost of this provision will be dependent upon the number of individuals who enroll and the extent to which they use the benefit.

Explanation of State Revenues: (Revised) This bill creates the Tobacco Settlement Authority to assist in securitizing 20% 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 9-member board consisting of the Governor, Lieutenant

Governor, the Treasurer of State, and 6 members appointed by the Governor (not more than three of whom may be members of the same political party). Of the members appointed by the Governor, two are to be persons recommended by the Speaker of the House and the President Pro Tempore of the Senate, respectively. Five members of the Board constitute a quorum, and 5 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 $120 M appropriated by this bill from the Tobacco Master Settlement Agreement Fund is 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 20% 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 $352.5 M in bonds with a 35-year maturity would result in net proceeds of $298.1 M. This estimate is based on the financial conditions in December of 2002 and the following assumptions: a liquidity reserve of $27.5 M, capitalized interest of $12.4 M, costs of issuance of $3.5 M, an original issue discount of $11 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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