
A BILL FOR AN ACT

RELATING TO THE HAWAII TOBACCO SETTLEMENT SPECIAL FUND.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 328L-4, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§328L-4 Use of funds appropriated to the department.** The
4 department, immediately upon receipt of the moneys appropriated
5 pursuant to section 328L-2(b)(2) shall:

6 (1) Transfer up to ten per cent of the total moneys
7 received by the State from tobacco settlement moneys
8 to the department of human services for the children's
9 health insurance program; and

10 (2) Expend the remainder of the moneys received by the
11 department for health promotion and disease prevention
12 programs, including but not limited to, maternal child
13 health and child development programs, promotion of
14 healthy lifestyles (including fitness, nutrition, and
15 tobacco control), and prevention oriented public
16 health programs.

1 ~~[For purposes of paragraph (2), the director shall convene~~
2 ~~an advisory group that shall be separate from the tobacco~~
3 ~~prevention and control advisory board, to strategically plan the~~
4 ~~development and implementation of preventive systems to achieve~~
5 ~~measurable outcomes and to make recommendations for the~~
6 ~~expenditure of these moneys. The advisory group shall be~~
7 ~~composed of nine members with expertise in the programs under~~
8 ~~paragraph (2), and shall be selected at the discretion of the~~
9 ~~director.]"~~

10 SECTION 2. Section 328L-5, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§328L-5 Hawaii tobacco prevention and control trust fund.**

13 (a) There is established the Hawaii tobacco prevention and
14 control trust fund as a separate fund of a nonprofit entity
15 having a board of directors and qualifying under section
16 501(c)(3) of the Internal Revenue Code of 1986, as amended, into
17 which shall be deposited moneys received as provided under
18 section 328L-2(b)(3). The director of health with the
19 concurrence of the governor, shall select, in accordance with
20 law, the entity based upon the proven record of accomplishment
21 of the entity in administering a similar trust fund.

1 (b) Notwithstanding that the Hawaii tobacco prevention and
2 control trust fund is established within a private entity, the
3 department of budget and finance shall have oversight authority
4 over the fund and may make periodic financial audits of the
5 fund; provided that the director of finance may contract with a
6 certified public accountancy firm for this purpose. The
7 director of health with the concurrence of the governor in their
8 sole discretion may rescind the selection of the entity. If the
9 selection of the entity [is] rescinded, moneys in the trust fund
10 shall revert back to the State and shall be deemed to be trust
11 moneys.

12 (c) The entity selected under subsection (a), for each
13 fiscal year, may expend, as specified by the tobacco prevention
14 and control advisory board pursuant to section 328L-6, up to
15 fifty per cent of the total market value of the Hawaii tobacco
16 prevention and control trust fund on the preceding June 30, for
17 tobacco prevention and control, including but not limited to,
18 reducing cigarette smoking and tobacco use among youth and
19 adults through education and enforcement activities, and
20 controlling and preventing chronic diseases where tobacco is a
21 risk factor. The entity selected under subsection (a) may make
22 recommendations to the tobacco prevention and control advisory

1 board as to funding approval for activities pursuant to this
2 subsection.

3 (d) The Hawaii tobacco prevention and control trust fund
4 may receive appropriations, contributions, grants, endowments,
5 or gifts in cash or otherwise from any source, including the
6 State, corporations or other businesses, foundations,
7 government, individuals, and other interested parties; provided
8 that any appropriations made by the State shall not supplant or
9 diminish the funding of existing tobacco prevention and control
10 programs or any health related programs funded in whole or in
11 part by the State.

12 (e) The assets of the Hawaii tobacco prevention and
13 control trust fund shall consist of:

- 14 (1) Moneys appropriated under section 328L-2(b)(3);
15 (2) Moneys appropriated to the Hawaii tobacco prevention
16 and control trust fund by the state, county, or
17 federal government;
18 (3) Private contributions of cash or property; and
19 (4) Income and capital gains earned by the trust fund.

20 (f) The aggregate principal sum deposited in the Hawaii
21 tobacco prevention and control trust fund shall be invested by
22 the entity selected under subsection (a) in a manner intended to

1 maximize the rate of return on investment of the trust fund
2 consistent with the objective of preserving the trust fund's
3 principal.

4 (g) The entity selected under subsection (a), for each
5 fiscal year, shall submit a report to the legislature and to the
6 tobacco prevention and control advisory board created under
7 section 328L-6. The report shall include:

8 (1) Amounts received from appropriations, contributions,
9 grants, endowments, and gifts from any sources and in
10 any form;

11 (2) Income and capital gains earned by the fund;

12 (3) Investments of fund moneys and outcomes of each
13 investment; and

14 (4) Expenditures of fund moneys pursuant to subsection (c)
15 and outcomes achieved by each expenditure as measured
16 by criteria developed by the tobacco prevention and
17 control advisory board pursuant to section 328L-6.

18 [~~g~~] (h) If the entity selected under subsection (a) is
19 dissolved, the director of health, with the concurrence of the
20 governor, shall select a successor entity. If the Hawaii
21 tobacco prevention and control trust fund is terminated, the

1 moneys remaining in the trust fund shall revert back to the
2 State and shall be deemed to be trust moneys.

3 ~~[(h)]~~ (i) The administration of the Hawaii tobacco
4 prevention and control trust fund shall be advised by the
5 tobacco prevention and control advisory board created under
6 section 328L-6."

7 SECTION 3. Section 328L-6, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "~~{}~~§328L-6~~{}~~ **Tobacco prevention and control advisory**
10 **board.** (a) There is established a tobacco prevention and
11 control advisory board under the department for administrative
12 purposes.

13 (b) The tobacco prevention and control advisory board
14 shall consist of members who are involved in tobacco prevention
15 and control. Membership of the board shall be as follows:

16 ~~[(1) One member of the governor's staff, appointed by the~~
17 ~~governor;~~

18 ~~-(2)]~~ (1) One member to be appointed by the governor from a
19 list of two names submitted by the president of the
20 senate;

1 [~~(3)~~] (2) One member to be appointed by the governor from a
2 list of two names submitted by the speaker of the
3 house of representatives;

4 [~~(4)~~] (3) The director or the director's designee;

5 [~~(5)~~] (4) The superintendent of education or the
6 superintendent's designee;

7 [~~(6)~~] (5) Three members having demonstrated interest in and
8 having backgrounds beneficial to controlling and
9 preventing the use of tobacco, appointed [~~by the~~
10 ~~director of health;~~] by the governor from a list of at
11 least four names submitted by the speaker of the house
12 of representatives; and

13 [~~(7)~~] (6) Three members representing populations at risk
14 for tobacco use, appointed [~~by the governor.~~] by the
15 governor from a list of at least four names submitted
16 by the president of the senate;

17 provided that no member of the tobacco prevention and control
18 advisory board, except as specified in paragraph (3) of this
19 subsection, shall be an employee or contractor of the department
20 who performs work in an area within the purview of the tobacco
21 prevention and control advisory board.

22 (c) Members shall:

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- 1 (1) Be appointed or designated, as applicable, without
2 regard to section 26-34;
- 3 (2) Serve without compensation; and
- 4 (3) Serve for a term of three years.
- 5 (d) The tobacco prevention and control advisory board, in
6 collaboration with the department, shall develop a strategic
7 plan for tobacco prevention and control, including:
- 8 (1) Developing and implementing effective and cost
9 efficient programs, including health promotion and
10 disease prevention;
- 11 (2) Developing adequate standards and benchmarks by which
12 ~~[measures of program success]~~ the success of programs
13 implemented under paragraph (1) of this subsection and
14 tobacco prevention and control activities implemented
15 pursuant to section 328L-5(c) may be appropriately
16 evaluated; ~~[and]~~
- 17 (3) Assessing the effectiveness of programs ~~[engaged in]~~
18 implemented under this section and section 328L-5(c)
19 for the purpose of health promotion and disease
20 prevention[-];
- 21 (4) Establishing criteria for expenditures under section
22 328L-5(c); and

1 (5) Approving or disapproving and determining the amount
2 of expenditures for activities under section
3 328L-5(c).

4 The strategic plan shall be in writing and shall be a
5 public document.

6 (e) The tobacco prevention and control advisory board
7 shall advise the department on the administration of the Hawaii
8 tobacco prevention and control trust fund. This advice shall be
9 considered prescriptive."

10 SECTION 4. Act 119, Session Laws of Hawaii 2009, is
11 amended by amending section 6 to read as follows:

12 "SECTION 6. This Act shall take effect on July 1, 2009,
13 and shall be repealed on June 30, 2015; provided that [~~section~~]
14 sections 328L-2, [~~Hawaii Revised Statutes~~] 328L-3, and 328L-4,
15 Hawaii Revised Statutes, shall be reenacted in the form in which
16 [~~it~~] they read on the day before the effective date of Act 264,
17 Session Laws of Hawaii 2007[~~-~~]; provided further that the
18 amendments made to section 328L-4, Hawaii Revised Statutes, by
19 section 1 of Act _____, Session Laws of Hawaii 2010, shall not
20 be repealed when that section is reenacted on June 30, 2015."

21 SECTION 5. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.

1 SECTION 6. This Act shall take effect July 1, 2010.

2

Report Title:

Hawaii Tobacco Settlement Special Fund

Description:

Deletes the requirement that the director of health convene an advisory group to plan the development and implementation of prevention programs and make recommendations on expenditures. Transfers the responsibilities of the advisory group to the tobacco prevention and control advisory board. Amends composition of the tobacco prevention and control advisory board and makes the boards decisions prescriptive. (SD1)

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