
A BILL FOR AN ACT

RELATING TO FUNDING FOR THE TOBACCO ENFORCEMENT SPECIAL FUND.

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

1 SECTION 1. The tobacco enforcement special fund supports
2 the tobacco enforcement unit within the department of the
3 attorney general to administer, monitor, and enforce the tobacco
4 master settlement agreement and related Hawaii laws, including
5 chapters 486P and 675, Hawaii Revised Statutes. The tobacco
6 enforcement unit is also tasked with enforcing the cigarette tax
7 stamp program pursuant to chapter 245, Hawaii Revised Statutes.

8 Section 28-15(c), Hawaii Revised Statutes, currently
9 mandates that moneys in excess of \$500,000 remaining in the
10 tobacco enforcement special fund at the close of each fiscal
11 year lapse to the credit of the state general fund. Section
12 245-26(a)(2), Hawaii Revised Statutes, transfers a percentage of
13 the cigarette tax stamp fee into the tobacco enforcement special
14 fund. Section 328L-2, Hawaii Revised Statutes, mandates that,
15 of all tobacco settlement moneys received by the State in each
16 fiscal year, the first \$350,000 be deposited in the state
17 treasury to the credit of the tobacco enforcement special fund.

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1 The amount of cigarette tax stamp revenues deposited into
2 the tobacco enforcement special fund has noticeably decreased in
3 recent years. This trend is expected to continue. To maintain
4 the tobacco enforcement unit's diligent enforcement efforts and
5 to minimize the risk of losing the master settlement agreement
6 annual payments, it is critical that the unit receive adequate
7 and continuous funding.

8 The purpose of this Act is to stabilize and increase
9 funding for the tobacco enforcement unit within the department
10 of the attorney general by amending:

11 (1) The amount of funds that the tobacco enforcement
12 special fund can carry over at the end of each fiscal
13 year;

14 (2) The cigarette tax stamp fee and the percentage of that
15 fee allotted to the tobacco enforcement special fund;
16 and

17 (3) The sum of moneys received from the tobacco settlement
18 that is deposited to the credit of the tobacco
19 enforcement special fund.

20 SECTION 2. Section 28-15, Hawaii Revised Statutes, is
21 amended by amending subsection (c) to read as follows:

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1 "(c) All unencumbered and unexpended moneys in excess of
2 [~~\$500,000~~] \$750,000 remaining on balance in the tobacco
3 enforcement special fund at the close of June 30 of each year
4 shall lapse to the credit of the state general fund."

5 SECTION 3. Section 245-26, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) Stamps shall be sold at their denominated values,
8 plus a stamp fee of [~~1.7~~] 2.2 per cent of the denominated value
9 of each stamp sold, composed of the aggregate of:

10 (1) .2 per cent of the denominated value of the stamp to
11 pay for the cost to the State of providing the stamps,
12 with that amount to be deposited to the credit of the
13 department of taxation's cigarette tax stamp
14 administrative special fund; and

15 (2) [~~1.5~~] Two per cent of the denominated value of the
16 stamp to pay for the cost of enforcing the stamp tax,
17 with that amount to be deposited to the credit of the
18 department of the attorney general's tobacco
19 enforcement special fund;

20 provided that the department by rule may modify the stamp fee to
21 reflect actual costs incurred by the State in providing the
22 stamps."

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1 SECTION 4. Section 328L-2, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) There is established in the state treasury the Hawaii
4 tobacco settlement special fund into which shall be deposited:

5 (1) All tobacco settlement moneys; and

6 (2) All interest and earnings accruing from the investment
7 of moneys in the fund;

8 provided that of all tobacco settlement moneys received by the
9 State each fiscal year, the sum representing the first
10 [~~\$350,000~~] \$750,000 of those moneys shall first be deposited in
11 the state treasury in each fiscal year to the credit of the
12 tobacco enforcement special fund. The Hawaii tobacco settlement
13 special fund shall be administered by the department."

14 SECTION 5. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 6. This Act, upon its approval, shall take effect
17 on July 1, 2024.

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INTRODUCED BY: _____

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BY REQUEST
JAN 22 2024

H.B. NO. 2341

Report Title:

Cigarette Tax Stamp Fees; Tobacco Enforcement Special Fund;
Hawaii Tobacco Settlement Special Fund

Description:

Amends the amount of funding for the Tobacco Enforcement Special Fund administered by the Department of the Attorney General by amending the amount of funds that the Tobacco Enforcement Special Fund can carry over at the end of the fiscal year; increasing the cigarette tax stamp fee and concurrently increasing the percentage of the cigarette tax stamp fee deposited to the Tobacco Enforcement Special Fund; and amending the amount of funds to be deposited to the credit of the Tobacco Enforcement Special Fund from tobacco settlement moneys. Effective 7/1/2024.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO FUNDING FOR THE TOBACCO ENFORCEMENT SPECIAL FUND.

PURPOSE: To stabilize and increase funding for the Tobacco Enforcement Unit (Unit) within the Department by increasing the amount of funds that the Tobacco Enforcement Special Fund shall carry over at the end of the fiscal year from \$500,000 to \$750,000; increasing the cigarette tax stamp fee from 1.7 percent to 2.2 percent and increasing the amount to be deposited to the credit of the Tobacco Enforcement Special Fund from 1.5 percent to 2.0 percent; and increasing the amount to be credited to the Tobacco Enforcement Special Fund from the tobacco Master Settlement Agreement (MSA) annual payment from \$350,000 to \$750,000.

MEANS: Amend sections 28-15(c), 245-26(a), and 328L-2(a), Hawaii Revised Statutes (HRS).

JUSTIFICATION: Section 28-15, HRS, established the Tobacco Enforcement Special Fund within the Department and mandated its use by the Department for administering, monitoring, and enforcing the MSA and related Hawaii laws, including chapters 486P and 675, HRS. The Unit is also specifically tasked with enforcing the cigarette tax stamp program as defined in chapter 245, HRS, and any other statutes or programs relating to that chapter.

Currently, the Unit receives \$350,000 from the annual MSA payment, but most of the Unit's funding is derived from cigarette tax stamp collections, pursuant to section 245-26, HRS. Since 2016, the cigarette tax stamp revenues reported by the Department of Taxation have plummeted, from over \$116 million in fiscal year 2015-2016 to less than \$77 million in fiscal year 2022-2023.

The cigarette stamp revenues deposited into the Tobacco Enforcement Special Fund have similarly dropped - from \$1.74 million in fiscal year 2015-2016 to less than \$1.14 million in fiscal year 2022-2023. This trend is expected to continue.

The Unit, however, is still tasked with diligently enforcing the MSA and preparing for arbitration with millions of dollars in MSA funding at stake. Enforcing the MSA-related statutes, including the stamp fees imposed in chapter 245, HRS, are important elements of the required diligent enforcement. In recent and ongoing arbitrations, the states found to be non-diligent have already lost or currently risk losing hundreds of millions of dollars of expected MSA annual payments. Orders issued in the two most recent arbitrations make it clear that the Unit needs to maintain funding. In fact, based on the findings of the arbitration panels, in FY 2022-2023, the Unit added an auditor to strengthen the Unit's diligent enforcement efforts. Increasing funding for the Unit will allow the Department to continue its enforcement of the MSA and provide the resources needed to prepare for arbitration properly and adequately.

Impact on the public: This bill addresses the public health issue of tobacco enforcement by providing the fiscal resources for the regulation of the MSA and the sales of cigarettes and tobacco products. The increase to the tax stamp fee, although minimal, may increase the cost to consumers.

Impact on the department and other agencies: This bill provides the Department with the fiscal resources to effectuate the operations of the Unit, allowing for more funding stability in anticipation of expected reductions in cigarette tax revenues. In addition to the funding

generated by the increased stamp fees, the health and economic consequences of smoking would be favorably impacted.

GENERAL FUND: The amount received by the general fund from the MSA annual payment pursuant to section 328L-2(b)(4), HRS, will be less due to the Tobacco Enforcement Special Fund receiving \$400,000 more. The general fund receives 46.5 percent of the MSA annual payment after the Tobacco Enforcement Special Fund receives its portion.

The end-of-year balance lapse to the general fund pursuant to section 28-15(c), HRS, will be up to \$250,000 less, contingent on the Tobacco Enforcement Special Fund containing sufficient funds in its ending cash balance.

OTHER FUNDS: The amount received by other funds from the MSA annual payment pursuant to section 328L-2(b)(1)-(3), HRS, will be less due to the Tobacco Enforcement Special Fund receiving \$400,000 more.

The Tobacco Enforcement Special Fund's carry over balance pursuant to section 28-15(c), HRS, will increase by \$250,000.

PPBS PROGRAM
DESIGNATION: ATG-100, Legal Services.

OTHER AFFECTED
AGENCIES: Department of Budget and Finance; Department of Health; Department of Taxation.

EFFECTIVE DATE: July 1, 2024.