

SENATE BILL REPORT

SB 6828

As Passed Senate, March 9, 2002

Title: An act relating to the disposition of the state's revenues from the tobacco litigation national master settlement agreement.

Brief Description: Securitizing a portion of the state's revenue from the tobacco litigation national master settlement agreement.

Sponsors: Senators Brown and Swecker.

Brief History:

Committee Activity: Ways & Means: 3/5/02, 3/6/02 [DP, DNP].

Passed Senate: 3/9/02, 25-24.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Brown, Chair; Regala, Vice Chair; Fairley, Vice Chair; Fraser, Kline, Kohl-Welles, Poulsen, Rasmussen, B. Sheldon, Snyder, Spanel and Thibaudeau.

Minority Report: Do not pass.

Signed by Senators Hewitt, Honeyford, Parlette, Rossi and Sheahan.

Staff: Steve Jones (786-7440)

Background: In June 1996, the state of Washington brought suit against the major tobacco companies, seeking reimbursement for costs incurred in treating tobacco-related illnesses as well as damages for violations of consumer protection and anti-trust laws. On November 23, 1998, the Attorneys General and other representatives of 46 states announced a national settlement with the five largest tobacco manufacturers. The settlement of Washington's case was approved by the King County Superior Court and the decision became final on December 24, 1998.

The national master settlement agreement requires annual payments by the companies to the participating states; up to \$206 billion will be received during the first 25 years of the agreement. The state of Washington is scheduled to receive approximately \$4.0 billion during the first 25 years, with \$323 million received during the 1999-01 fiscal biennium. The settlement agreement does not restrict the state's use of the moneys; the Legislature may direct the moneys to be expended for any purpose. During the 1999-01 and 2001-03 biennia, the moneys have been used to support a tobacco prevention and control program in the Department of Health and to support the Basic Health Plan and other health programs funded by the Health Services Account.

Summary of Bill: The Tobacco Settlement Authority is established as a state agency, governed by a five-member board appointed by the Governor, with administrative support provided by the staff of the state Housing Finance Commission, an existing state agency.

The Governor is authorized to sell to the Tobacco Settlement Authority the right to receive up to 25 percent of the state's annual share of the revenue from the national master tobacco settlement agreement. It is anticipated that this sale will generate approximately \$525 million of revenue to the state, of which \$105 million will be deposited to the Health Services Account and the remainder to the state General Fund.

To raise the revenue necessary to purchase the share of the state's tobacco revenues, the Tobacco Settlement Authority is authorized to issue revenue bonds. These bonds are not general obligations of the state of Washington and are backed solely by the revenues received from the tobacco manufacturers.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: The securitization of tobacco revenues is a recognized financial instrument with an established, well-accepted market. More than 17 states and counties have successfully raised capital through more than 24 transactions. The current market includes more than \$7 billion of actively traded outstanding obligations. Bond rating agencies have developed an established rating methodology, and the Housing Finance Commission has resident expertise in these kinds of bond issuances. While current interest rates are very low for this kind of bond (around 6 percent for long-term issues), the market conditions at the time of the bond issuance will determine the financing costs. The legislation appears to provide a broad, flexible vehicle for a successful financing transaction. States have used tobacco securitization for a variety of purposes, including capital construction, endowment funds, and general budget relief.

Testimony Against: Tobacco revenues should be used for health care and tobacco prevention programs. Selling these revenues is short-sighted and delays any long-term solution to the state budget. The proceeds of the state's litigation against the tobacco companies should be used to pay restitution to our children.

Testified: Kim Herman, Washington State Housing Finance Commission; Jeffrey Hyman, UBS PaineWebber; CON: Elizabeth Swain, American Lung Assoc.; Astrid Berg, Community Health Plan.

House Amendment(s): (1) Directs the Governor to generate \$450 million in net proceeds from the sale of the right to receive a portion of the state's share of revenue from the Master Tobacco Settlement.

(2) Establishes a trust fund in the custody of the Treasurer in which the proceeds of the sale must be deposited.

(3) Makes other technical changes to ensure that the bonds are not subject to the state debt limit and that interest on them is tax exempt.

(4) Clarifies the state's duties regarding enforcement and amendment of the Master Tobacco Settlement Agreement.