HOUSE BILL REPORT
SB 6541

As Reported by House Committee On:
Appropriations

Title: An act relating to appeal bond requirements involving judgments against signatories of the tobacco master settlement agreement.

Brief Description: Regarding appeal bond requirements against signatories of the tobacco master settlement agreement.

Sponsors: Senators Prentice and Zarelli.

Brief History:

Committee Activity:

Appropriations: 2/16/06, 2/20/06 [DPA].

Brief Summary of Bill
(As Amended by House Committee)

- Limits to $100 million the amount of a supersedeas bond that a tobacco manufacturer participating in the Master Settlement Agreement must post to stay execution of a civil judgment.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended. Signed by 25 members: Representatives Sommers, Chair; Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Armstrong, Bailey, Buri, Chandler, Clements, Cody, Conway, Dunshee, Grant, Haigh, Hinkle, Hunter, Kenney, Kessler, McIntire, Miloscia, Pearson, Priest, P. Sullivan, Talcott and Walsh.

Minority Report: Do not pass. Signed by 5 members: Representatives Darneille, Kagi, Linville, McDermott and Schual-Berke.

Staff: Kristen Fraser (786-7148).

Background:

In 1996, the State of Washington brought suit against the major tobacco manufacturing companies, seeking reimbursement for costs incurred in treating tobacco-related illnesses as well as damages for violations of consumer protection and anti-trust laws. In 1998, 46 states, including Washington, reached a national settlement with the five largest tobacco manufacturers. The national Master Settlement Agreement (Agreement) requires annual payments by the companies to the participating states. The states will receive up to $206 billion during the first 25 years of the Agreement, including about $4.5 billion for Washington. In 2002, the Legislature created the Tobacco Settlement Authority to securitize a portion of the state's tobacco settlement revenues by selling revenue bonds backed by a portion of the settlement proceeds.

Under statute and court rules, a defendant who is appealing a civil judgment for money damages may stay the execution of the judgment by posting with the court a surety bond in double the amount of the judgment.

Summary of Amended Bill:

In any civil litigation involving a tobacco manufacturer who participates in the national Agreement, the surety bond required to stay execution of judgment may not exceed $100 million, regardless of the value of the judgment, unless the court finds that the manufacturer is dissipating assets to avoid payment of the judgment.

Amended Bill Compared to Original Bill:

The amended bill removes the emergency clause.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: Since the Agreement was reached, the Legislature has adopted tune-up legislation to reflect new developments, including adjustments for non-participating manufacturers. This is a related issue. Several court cases against tobacco companies who participate in the Agreement have jeopardized the states' revenue stream from the Agreement. Florida passed similar legislation to address a large verdict there. After another large verdict in Illinois, numerous states' attorneys general filed a brief in favor of reducing the amount of the bond required. Thirty-three states have passed similar caps on supersedeas bonds and five states don't require appellants to post bonds at all. This bill will protect Washington's revenue stream under the Agreement.

Testimony Against: This bill allows the tobacco industry to avoid costs it owes to injured persons. Tobacco companies are asking for this legislation because they are losing in court. The purpose of a supersedeas bond is to prevent frivolous appeals by requiring the losing party to put up money during the appeal. This proposal doesn't apply to other large class action claims, like asbestos. In the Illinois case, the bond was reduced only from $12 billion to $9 billion, and this did not drive the defendant tobacco manufacturer into bankruptcy. Tobacco manufacturers are giant corporations that spend thousands on marketing, and the benefit to the corporation is the business reason for this legislation.

Persons Testifying: (In support) Joe Daniels, Altria Corporation Services (Phillip Morris USA).

(Opposed) Michael Shaw, American Heart Association; and Nick Federici, American Lung Association.

Persons Signed In To Testify But Not Testifying: None.