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Bill Analysis
Legislative Service Commission

S.B. 242

124th General Assembly
(As Introduced)
(excluding appropriations and fund transfers)

Sen. Carnes (by request)

BILL SUMMARY

- Creates two new funds in the state treasury, both funded from tobacco settlement money, to pay the Attorney General's costs of overseeing, administering, and enforcing the Tobacco Master Settlement Agreement and the Tax Commissioner's costs of enforcing reporting requirements for brands not covered by the Master Settlement Agreement.
- Creates two new funds in the state treasury for paying the state employees of the Tobacco Use Prevention and Control Foundation and the Southern Ohio Agricultural and Community Development Foundation.
- Imposes penalties on a wholesale or retail dealer that fails to timely file reports of the quantity of each brand of cigarette and roll-your-own cigarette tobacco that the dealer sells in Ohio that is not covered by the Tobacco Master Settlement Agreement.
- Modifies or eliminates limitations on the amounts of tobacco settlement money that the Tobacco Use Prevention and Control Foundation, Southern Ohio Agricultural Community Development Foundation, Biomedical Research and Technology Transfer Commission, and their grantees may spend on administration.

CONTENT AND OPERATION

Creation of four new tobacco settlement funds

The bill creates four new funds in the state treasury:

(1) The Tobacco Settlement Oversight, Administration, and Enforcement Fund, which the Attorney General is to use to pay costs incurred in the oversight, administration, and enforcement of the Tobacco Master Settlement Agreement. The Director of Budget and Management must determine the amount necessary to pay such costs and, in each year from 2003 to 2025, transfer the amount from the Tobacco Master Settlement Agreement Fund. The transfer is to occur after required transfers to the Education Facilities Trust Fund and the Education Facilities Endowment Fund have been made but before other required transfers from the fund are made. (R.C. 183.02(I) and 183.34.)

(2) The Tobacco Settlement Enforcement Fund, which the Tax Commissioner is to use to pay costs incurred in enforcing a requirement the bill imposes on tobacco dealers regarding reporting information on brands not subject to the Tobacco Master Settlement Agreement (see below under "**Penalties for failing to timely file certain tobacco tax returns**"). Here too, the Director of Budget and Management must determine the amount necessary to pay such costs and, in each year from 2003 to 2025, transfer the amount from the Tobacco Master Settlement Agreement Fund. The transfer is to occur after required transfers to the Education Facilities Trust Fund and the Education Facilities Endowment Fund have been made but before other required transfers from the fund are made. (R.C. 183.02(J) and 183.35.)

(3) The Tobacco Use Prevention and Control Operating Expenses Fund, to be used solely to pay the compensation of the state employees of the Tobacco Use Prevention and Control Foundation. Periodically the Treasurer of State is to pay into the fund, from the Tobacco Use Prevention and Control Endowment Fund (a custodial fund of the Treasurer of State, which is not part of the state treasury), amounts requested by the Foundation to pay such compensation. (R.C. 183.06.)

(4) The Southern Ohio Agricultural and Community Development Operating Expenses Fund, which is to be used solely to pay the compensation of the state employees of the Southern Ohio Agricultural and Community Development Foundation. Here too, the Treasurer of State is to pay into the fund periodically, from the Southern Ohio Agricultural and Community Development Foundation Endowment Fund (a custodial fund of the Treasurer of State), amounts requested by the Foundation to pay such compensation. (R.C. 183.14.)

Penalties for failing to timely file certain tobacco tax returns

The bill requires each wholesale or retail dealer that must pay cigarette or other tobacco product taxes to the state to report to the Tax Commissioner the quantity of each brand of cigarette and roll-your-own cigarette tobacco that the dealer sells in Ohio that is not covered by the Tobacco Master Settlement Agreement. The report must be made on a form prescribed by the Commissioner

and filed monthly (unless the Commissioner authorizes less frequent reporting because the quantity does not warrant monthly reporting). (R.C. 5743.03.)

The bill imposes a penalty of not more than \$250 for each month or portion of a month that the person fails to timely file the report and allows the sum to be collected by assessment. It also provides that a person failing to report the return at all is guilty of a misdemeanor of the fourth degree (for which a trial court may impose a maximum fine of \$250, a maximum jail term of 30 days, or both). (R.C. 5743.99.)

Limitations on spending tobacco settlement money on administration

Under existing law, the Tobacco Use Prevention and Control Foundation, Southern Ohio Agricultural and Community Development Foundation, and Biomedical Research and Technology Transfer Commission are each prohibited from spending on their administrative expenses more than 5% of their total expenditures in a fiscal year. However, in FY 2001 and FY 2002, the foundation or commission has been allowed to spend more than that amount if it has submitted a spending plan to the Controlling Board that the Board has approved. The bill extends the Controlling Board exception to all future fiscal years. (R.C. 183.30.)

The bill eliminates altogether the existing limit of 10% on the amount that may be spent on administrative expenses (1) from Tobacco Use Prevention and Control Foundation funding by a public or private agency, (2) from a Southern Ohio Agricultural and Community Development Foundation grant or loan by an individual, public agency, or privately owned company, or (3) from a Biomedical Research and Technology Transfer Commission grant by an individual, public agency, private company or organization, or joint venture (repealed R.C. 183.31).

Correction

The bill corrects an erroneous cross reference that appeared in the original Tobacco Settlement Appropriations Act (Am. Sub. S.B. 192 of the 123rd General Assembly) (R.C. 126.02).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-26-02	---

s0242-i.124/kl

