

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0846-04  
Bill No.: SCS for SB 242  
Subject: State Attorney General; Department of Revenue; Tobacco Products  
Type: Original  
Date: March 5, 2007

Bill Summary: The proposal amends various provisions of the Tobacco Master Settlement Agreement

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	\$166,280	\$342,536	\$352,813
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$166,280</b>	<b>\$342,536</b>	<b>\$352,813</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Tobacco Control Special	Unknown	Unknown	Unknown
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>Unknown</b>	<b>Unknown</b>	<b>Unknown</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 9 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2008</b>	<b>FY 2009</b>	<b>FY 2010</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2008</b>	<b>FY 2009</b>	<b>FY 2010</b>
General Revenue	-2	-4	-4
Tobacco Control Special	4	4	4
<b>Total Estimated Net Effect on FTE</b>	<b>2</b>	<b>0</b>	<b>0</b>

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2008</b>	<b>FY 2009</b>	<b>FY 2010</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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## **FISCAL ANALYSIS**

### ASSUMPTION

Officials from the **Office of Administration – Division of Budget and Planning, Department of Corrections, Department of Public Safety – Director’s Office,** and the – **Division of Alcohol and Tobacco Control** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Office of Administration – Administrative Hearing Commission** assume the legislation will not significantly alter its caseload. However, if other similar bills also pass, there will be fiscal impact. If there are more cases or more complex cases, there could be a fiscal impact.

Officials from the **Office of Prosecution Services** assume the proposal would not have a significant direct fiscal impact on county prosecutors or the Office of Prosecution Services.

Officials from the **Office of the Attorney General (AGO)** anticipate a savings under this proposal due to the enhanced tools provided to the AGO to enforce the escrow requirements under the current law.

In FY 08, AGO anticipates a savings of 2 FTE Assistant Attorneys General IV (at \$55,000 each) for total of \$110,000. That number does not include the related expense and equipment.

In FY 09, AGO anticipates a savings of an additional 2 FTE Assistant Attorneys General IV (at \$55,000 each) for additional savings of \$110,000 in that fiscal year. Again, this does not include the savings on the related expense and equipment.

In the years thereafter, AGO anticipates no additional savings.

Officials from the **Department of Revenue (DOR)** assume to properly enforce the Master Settlement Agreement, the following tasks must be done:

ASSUMPTION (continued)

DOR assumes they would require an Attorney (at \$41,424 per year) to handle all the legal issues involved, including reviewing the certification and escrow agreements. As so many of the Non-Participating Manufacturers (NPMs) are located in foreign countries, DOR would need people versed in international law. Funding would be required to cover costs involved in serving papers in the foreign countries. As manufacturers and brands are constantly changing, attorneys are needed to investigate the true identity of the parties involved to determine who is ultimately responsible for the escrow payments. An Attorney would also be responsible for bringing actions against those companies that fail to comply.

DOR assumes they would require two Tax Processing Technicians I (each at \$23,916 per year) to receive, record, monitor and compile the reports of all cigarettes sold in Missouri. IT personnel would also be needed to assist with database design and to maintain an Internet site.

DOR assumes they would require eight Field Investigators (each at \$40,860 per year) to enforce this law. DOR would need to inspect not only the cigarette wholesalers, but also all retailers selling cigarettes. The Investigators would be stationed at area offices, and travel expense would be needed.

DOR assumes they would also need travel expense for the attorneys and the investigators to attend training and conferences, so that they stay current on issues and to maintain contacts with other states and national organizations.

DOR assumes they would incur Unknown costs for serving papers in foreign countries.

Due to the Statewide Information Technology Consolidation, DOR's response to a proposal reflects the cost estimates prepared by the Office of Administration – Information Technology Services Division (COA – ITSD) for impact to the various systems. If the legislation is Truly Agreed to and Finally Passed the COA – ITSD costs shown will be requested through appropriations by COA – ITSD.

Office of Administration Information Technology (COA – ITSD) estimates the IT portion of this request can be accomplished within existing resources; however, if priorities shift, additional FTE/overtime would be needed. COA – ITSD estimates that this legislation could be implemented utilizing 2 existing CIT III for 5 months at a rate of \$41,860.

In addition, COA – ITSD will require an additional ½ CIT III full time in order maintain the requirements of the Master Settlement Agreement.

ASSUMPTION (continued)

In summary, DOR assumes a need for 11.5 FTE at a cost of \$646,099 in FY 2008, \$710,204 in FY 2009, and \$728,170 in FY 2010.

In response to similar proposal from the 2004 session (HCS for HB 1267, LR # 4038-04), the DOR assumed they could administer the changes specified in the proposal with four additional FTE. **Oversight** will utilize the estimates used in the fiscal note for 4038-04 from 2004, and make adjustments for the new estimated fringe benefit factor and for a full year in FY 2008 (emergency clause).

**Oversight** assumes the income from disgorgements, penalties, and fees will exceed the Department of Revenue costs.

Officials from the **Office of the Secretary of State (SOS)** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this proposal for Administrative Rules is less than \$2,500. The SOS recognizes this is a small amount and does not expect additional funding would be required to meet these costs. However, SOS also recognizes that many such bills may be passed in a given year and that collectively the costs may be in excess of what the SOS can sustain with their core budget. Any additional required funding would be handled through the budget process.

Officials from the **Office of the State Public Defender (SPD)** assume this new crime will require more SPD resources. While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional appropriations for this specific bill, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all its cases.

**Oversight** assumes the Office of the State Public Defender (SPD) could absorb the costs of the proposed legislation within existing resources. Oversight assumes any significant increase in the workload of the SPD would be reflected in future budget requests.

ASSUMPTION (continued)

Officials from the **State Treasurer's Office (STO)** assume they would require an FTE Accounting Specialist II (at \$43,596 per year plus \$18,825 fringe benefits = \$62,421) to monitor the disbursements. (This will be allocated proportionately as a retention of interest earnings on state funds in accordance with Section 30.605 RSMo.)

In response to a similar proposal from the 2005 session (SB 326, LR # 1283-01), officials from the State Treasurer's Office (STO) assumed no fiscal impact. Therefore, **Oversight** assumes STO can absorb the impact of this proposal within existing resources.

<u>FISCAL IMPACT - State Government</u>	FY 2008	FY 2009	FY 2010
<b>GENERAL REVENUE FUND</b>			
<u>Savings – Office of the Attorney General</u>			
Personal Service	\$113,300	\$233,398	\$240,400
Fringe Benefits	\$51,280	\$105,636	\$108,805
Equipment and Expense	\$1,700	\$3,502	\$3,608
<u>Total Savings – AGO</u>	<u>\$166,280</u>	<u>\$342,536</u>	<u>\$352,813</u>
FTE Change – AGO _____	(2) FTE	(4) FTE	(4) FTE
 <b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	 <b><u>\$166,280</u></b>	 <b><u>\$342,536</u></b>	 <b><u>\$352,813</u></b>
 Estimated Net FTE Change for General Revenue Fund	 (2) FTE	 (4) FTE	 (4) FTE

FISCAL IMPACT - State Government                      FY 2008                      FY 2009                      FY 2010  
 (continued)

**TOBACCO CONTROL SPECIAL FUND**

<u>Income</u> – Collection of disgorgements, penalties, and fees	Unknown	Unknown	Unknown
<u>Costs</u> – Department of Revenue (DOR)			
Personal Service	(\$150,737)	(\$154,505)	(\$158,368)
Fringe Benefits	(\$66,415)	(\$68,075)	(\$69,777)
Equipment and Expense	<u>(\$25,469)</u>	<u>(\$3,151)</u>	<u>(\$3,246)</u>
Total Costs – DOR	<u>(\$242,621)</u>	<u>(\$225,731)</u>	<u>(\$231,391)</u>
FTE Change – DOR	4 FTE	4 FTE	4 FTE

**ESTIMATED NET EFFECT ON TOBACCO CONTROL SPECIAL FUND**

	<u><b>Unknown</b></u>	<u><b>Unknown</b></u>	<u><b>Unknown</b></u>
Estimated Net FTE Change for Tobacco Control Special Fund	4 FTE	4 FTE	4 FTE

FISCAL IMPACT - Local Government                      FY 2008                      FY 2009                      FY 2010

**\$0**                                      **\$0**                                      **\$0**

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

## FISCAL DESCRIPTION

The proposed legislation modifies the release of certain funds placed in escrow by tobacco product manufacturers in compliance with the 1998 Master Settlement Agreement.

The proposal requires all tobacco manufacturers whose cigarettes are sold in Missouri to report and certify to the Department of Revenue and the Attorney General's Office by April 30 of each year that they are in compliance with the Tobacco Settlement Model Statute currently in Missouri law. In addition to the certification, manufacturers must also provide a list of "brand families," including the number of units sold for each family for the preceding year, the name and address of any other manufacturer of their brand families in the preceding or current calendar year, and other information to verify compliance with the model statute. Manufacturers must update their lists thirty days prior to any addition to or modification of its brand families through a supplemental certification to the director of the Department of Revenue.

In addition to other certification requirements, each manufacturer must be registered to do business in the state or maintain an agent within the state for the purpose of service of process relating to the enforcement of the act. By July 1, 2008, the Director of the Department of Revenue must make available for public inspection or publish on the department's web site a list of all tobacco product manufacturers that have satisfied the certification requirements established in the act.

The director of the Department of Revenue and the Attorney General are allowed to provide statistical information on tobacco sales in the state to outside entities to implement and enforce the provisions of the act.

Stamping agents (persons authorized to affix cigarette tax stamps to cigarette packages) are required to submit to the director an e-mail address for the receipt of notifications as required by the act and to submit various reports and documents as required by the Department of Revenue.

Various penalties and actions for failure to comply with the requirements of the act are included.

The proposal contains an emergency clause, and will be in full force and effect upon passage and approval.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.



SOURCES OF INFORMATION

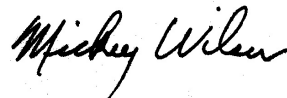
Office of the Attorney General  
Office of State Courts Administrator  
Office of Administration

- Administrative Hearing Commission
- Division of Budget and Planning

Department of Corrections  
Department of Revenue  
Department of Public Safety

- Director’s Office
- Division of Alcohol and Tobacco Control

Office of Prosecution Services  
Office of the Secretary of State  
Office of the State Public Defender  
State Treasurer’s Office



Mickey Wilson, CPA  
Director  
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