

# S.B. NO. 1280

JAN 25 2023

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## A BILL FOR AN ACT

RELATING TO FUNDING FOR THE DEPARTMENT OF THE ATTORNEY GENERAL  
TOBACCO ENFORCEMENT UNIT.

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

1           SECTION 1. The legislature finds that the tobacco  
2 enforcement special fund supports the tobacco enforcement unit  
3 to administer, monitor, and enforce the tobacco master  
4 settlement agreement and related Hawaii laws, including chapters  
5 486P and 675, Hawaii Revised Statutes. Section 28-15(c), Hawaii  
6 Revised Statutes, currently mandates that moneys in excess of  
7 \$500,000 remaining in the tobacco enforcement special fund at  
8 the close of each fiscal year lapse to the credit of the state  
9 general fund. Section 245-26(a)(2), Hawaii Revised Statutes,  
10 transfers a percentage of the cigarette tax stamp fee into the  
11 tobacco enforcement special fund. Section 328L-2, Hawaii  
12 Revised Statutes, mandates that a sum of the moneys from all  
13 tobacco settlement moneys and all interest and earnings accruing  
14 from the investment of moneys in the fund be deposited into the  
15 tobacco settlement special fund, provided that the first  
16 \$350,000 of those moneys is deposited in the state treasury to  
17 the credit of the tobacco enforcement special fund.

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1           The amounts of the cigarette tax stamp revenues deposited  
2 into the tobacco enforcement special fund have noticeably  
3 dropped in recent years. This trend is expected to continue.  
4 To maintain the tobacco enforcement unit's diligent enforcement  
5 efforts and to minimize the risk of losing the master settlement  
6 agreement annual payments, it is critical that the unit receive  
7 adequate 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 increasing the amount of funds that  
11 the tobacco enforcement special fund can carry over at the end  
12 of the fiscal year; increasing the cigarette tax stamp fee and  
13 the percentage of that fee allotted to the tobacco enforcement  
14 special fund; and increasing the sum of moneys received from the  
15 tobacco settlement as set forth in sections 28-15(c), 245-26(a),  
16 and 328L-2(a), Hawaii Revised Statutes.

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

19           "(c) All unencumbered and unexpended moneys in excess of  
20 [~~\$500,000~~] \$750,000 remaining on balance in the tobacco  
21 enforcement special fund at the close of June 30 of each year  
22 shall lapse to the credit of the state general fund."

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

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

6 (1) .2 per cent of the denominated value of the stamp to  
7 pay for the cost to the State of providing the stamps,  
8 with that amount to be deposited to the credit of the  
9 department of taxation's cigarette tax stamp  
10 administrative special fund; and

11 (2) [~~1.5~~] 2.0 per cent of the denominated value of the  
12 stamp to pay for the cost of enforcing the stamp tax,  
13 with that amount to be deposited to the credit of the  
14 department of the attorney general's tobacco  
15 enforcement special fund;

16 provided that the department by rule may modify the stamp fee to  
17 reflect actual costs incurred by the State in providing the  
18 stamps."

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

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

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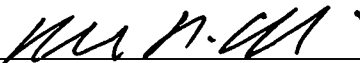
1 (1) All tobacco settlement moneys; and  
2 (2) All interest and earnings accruing from the investment  
3 of moneys in the fund;  
4 provided that of all tobacco settlement moneys received by the  
5 State each fiscal year, the sum representing the first  
6 [~~\$350,000~~] \$750,000 of those moneys shall first be deposited in  
7 the state treasury in each fiscal year to the credit of the  
8 tobacco enforcement special fund. The Hawaii tobacco settlement  
9 special fund shall be administered by the department."

10 SECTION 5. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12 SECTION 6. This Act, upon its approval, shall take effect  
13 on July 1, 2023.

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INTRODUCED BY: 

16

BY REQUEST

# S.B. NO. 1280

**Report Title:**

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

**Description:**

Increases and stabilizes the amount of funding for the tobacco enforcement special fund within the Department of the Attorney General by: (1) increasing the amount of funds that the tobacco enforcement special fund can carry over at the end of the fiscal year; (2) increasing the cigarette tax stamp fee and by concurrently increasing the percentage of the cigarette tax stamp fee deposited to the tobacco enforcement special fund; and (3) amending the amount of funds to be deposited in the tobacco enforcement special fund from the Hawaii tobacco settlement special fund. Effective on July 1, 2023.

*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 DEPARTMENT OF THE ATTORNEY GENERAL TOBACCO ENFORCEMENT UNIT.

PURPOSE: To increase funding for the Tobacco Enforcement Unit (Unit) within the Department of the Attorney General (Department).

MEANS: Amend section 28-15(c), Hawaii Revised Statutes (HRS), to increase 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.

Amend section 245-26(a), HRS, to increase the cigarette tax stamp fee from 1.7 percent to 2.2 percent and increase the amount to be deposited to the credit of the Department's tobacco enforcement special fund from 1.5 percent to 2.0 percent.

Amend section 328L-2(a), HRS, to increase 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.

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 just over \$85 million in fiscal year 2021-2022. The cigarette stamp revenues deposited into the tobacco enforcement special fund have similarly dropped - from \$1.74 million in fiscal year 2015-2016 to \$1.27 million in fiscal year 2021-2022. 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 on-going 2004 arbitration make it clear that the Unit needs to maintain funding and, in fact, add an auditor to strengthen the Unit's diligent enforcement efforts. Increasing funding for the Tobacco Enforcement 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, will 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:

OTHER FUNDS:

PPBS PROGRAM  
DESIGNATION:

OTHER AFFECTED  
AGENCIES:

Department of Budget and Finance; Department of Health; Department of Taxation

EFFECTIVE DATE: July 1, 2023.