
OLR Bill Analysis

sHB 6914 (as amended by House "A")*

AN ACT CONCERNING THE USE OF FUNDS IN THE OPIOID AND TOBACCO SETTLEMENT FUNDS AND FUNDS RECEIVED BY THE STATE AS PART OF ANY SETTLEMENT AGREEMENT WITH A MANUFACTURER OF ELECTRONIC NICOTINE DELIVERY SYSTEM AND VAPOR PRODUCTS.

SUMMARY

This bill makes changes affecting tobacco and opioid settlement funds, including the following:

1. starting FY 24, requiring the amount of JUUL settlement funds (see BACKGROUND) the state received in the prior fiscal year to be disbursed from the Tobacco Settlement Fund to the Department of Mental Health and Addiction Services (DMHAS) to fund specified programs targeting residents under age 21 (§ 1);
2. requiring the DMHAS commissioner, starting by September 1, 2024, to annually report to the Tobacco and Health Trust Fund board on how the prior fiscal year's JUUL settlement funds were disbursed and spent (§ 1); and
3. starting by October 1, 2023, requiring municipalities that receive opioid settlement funds directly from a settlement administrator to annually report to the Opioid Settlement Advisory Committee until they spend all the funds (§§ 2 & 3).

The bill also makes various other changes affecting the Tobacco and Health Trust Fund, such as (1) updating its statutory purposes for fund disbursements; (2) requiring that funding be directed to programs that use evidence-based best practices for various objectives; (3) requiring the fund's board, in recommending annual fund disbursements, to give priority to comprehensive tobacco and nicotine control programs for specified purposes; and (4) specifying that board vacancies occurring other than by a term's expiration must be filled in the same way as the

original appointment for the remainder of the term.

Additionally, the bill makes several changes to the state's tobacco settlement law requirements for tobacco product manufacturers, such as (1) allowing nonparticipating manufacturers or their transferees to irrevocably assign their interest in qualified escrow funds to the state, (2) requiring these assigned funds to be deposited into the Tobacco Health and Trust Fund, and (3) requiring nonparticipating manufacturers that maintain a qualified escrow fund to designate an agent for service of process.

Lastly, the bill makes technical and conforming changes.

*House Amendment "A" eliminates the provision in the underlying bill that increases, from \$12 million to \$22.7 million, the annual disbursement from the Tobacco Settlement Fund to the Tobacco and Health Trust Fund. It also adds the provisions (1) requiring the DMHAS commissioner to annually report on how JUUL settlement funds are disbursed and spent and (2) modifying the state tobacco settlement law's requirements for tobacco product manufacturers.

EFFECTIVE DATE: July 1, 2023, except that the provisions on tobacco product manufacturers take effect October 1, 2023.

§ 1 — TOBACCO SETTLEMENT FUND DISBURSEMENTS

Starting FY 24, the bill modifies annual disbursements from the Tobacco Settlement Fund by requiring the amount of JUUL settlement funds the state received the prior fiscal year to be disbursed to DMHAS, to distribute to the state's five regional behavioral health action organizations (RBHAOs, see BACKGROUND) for programs that support the abatement, mitigation, cessation, reduction, or prevention of nicotine or nicotine-synthetic product use by residents under age 21.

Starting by September 1, 2024, the bill requires the DMHAS commissioner to annually report to the Tobacco and Health Trust Fund board on how the settlement funds disbursed the prior fiscal year were distributed and how each RBHAO spent the funds for the purposes described above.

§§ 2 & 3 — OPIOID SETTLEMENT FUNDS

The bill requires municipalities that receive opioid settlement funds directly from a settlement administrator to annually report to the Opioid Settlement Advisory Committee (see BACKGROUND) on their expenditures for the prior year on a form the committee prescribes. The committee must publish the reports on its website.

Under the bill, municipalities must report by October 1, 2023, and annually afterwards, until they spend all their settlement funds.

§ 4 — TOBACCO AND HEALTH TRUST FUND

Fund Purposes

The bill updates the statutory purposes for fund disbursements to include the reduction of tobacco and nicotine use in all forms, including combustible, non-combustible, electronic, and synthetic products.

It requires that funding be directed to support and encourage tobacco and nicotine use prevention, education, and cessation programs that use evidence-based best practices for the following:

1. state and community interventions;
2. communication methods to disseminate health information to a wide audience;
3. cessation interventions;
4. surveillance and evaluation; and
5. infrastructure, administration, and management.

Under current law, funding must be directed to (1) support and encourage programs to reduce tobacco abuse through prevention, education, and cessation; (2) support and encourage program development for substance abuse reduction; and (3) develop and implement programs to meet the state's unmet physical and mental health needs.

Annual Disbursements

Under current law, the Tobacco and Health Trust Fund board, in recommending annual fund disbursements, must give priority to tobacco and substance abuse programs that serve minors, pregnant

women, and parents of young children.

The bill instead requires the board to give priority to comprehensive tobacco and nicotine control programs for the following purposes:

1. preventing initial use of these products by youth and young adults,
2. smoking cessation directed at adults and youth,
3. eliminating exposure to secondhand smoke and aerosol, and
4. identifying and eliminating tobacco and nicotine-related disparities.

As under current law, the board must also consider the availability of private-matching funds.

Board Vacancies

By law, board members serve three-year terms. The bill specifically requires board members to continue to serve until their successors are appointed or designated. Under the bill, if a vacancy occurs other than by a term's expiration, it must be filled in the same way as the original appointment for the remainder of the term.

Biennial Report

Existing law requires the board to submit a biennial report to the Appropriations and Public Health committees on the trust fund, including (1) all fund disbursements and expenditures, (2) an evaluation of the performance and impact of each program that receives funding, and (3) an accounting of any unexpended funds.

Current law also requires the report to include the criteria and application process used to select fund recipients. The bill specifies that this must include measurable outcome and evaluation criteria.

Funding Sources

The bill specifically allows the trust fund to apply for and accept assignments or transfers from public or private funding sources to carry out its purposes. The law already allows the fund to apply for and accept gifts, grants, or donations from these funding sources.

§ 5 — TOBACCO PRODUCT MANUFACTURERS

The bill makes several changes in the state’s tobacco settlement law. Under this law, tobacco product manufacturers selling cigarettes in Connecticut must either (1) enter into the master settlement agreement between Connecticut and four leading tobacco companies and comply with its terms and conditions or (2) pay into a qualified escrow fund a specified amount for each cigarette they sell in the state. Manufacturers that choose the latter option are considered “nonparticipating manufacturers.”

Assignment of Escrowed Funds

The bill authorizes any tobacco product manufacturer that places funds into a qualified escrow fund under Connecticut’s tobacco settlement law, or any third party to which the manufacturer has transferred its interest in the funds, to assign to the state all or part of its interest in the funds. Under the bill, the assignment:

1. is permanent and irrevocable;
2. applies to all of the qualified escrow fund’s assigned funds, including (a) those deposited before, on, or after the assignment and (b) any interest or other appreciation on the funds;
3. must be in writing and signed by the assignor’s duly authorized representative; and
4. is effective when delivered to the attorney general and financial institution that maintains the fund.

The tobacco product manufacturer, transferee, attorney general, or financial institution may amend the qualified escrow fund agreement as needed for this assignment or any withdrawal authorized under the tobacco settlement law (e.g., to pay a judgment or settlement on a claim brought against the manufacturer by the state).

The bill requires any funds assigned to the state under this provision to be deposited in the state’s Tobacco and Health Trust Fund. Any financial institution maintaining an assigned escrow fund may petition the Superior Court for an order authorizing a transfer of funds from the escrow fund to the Tobacco and Health Trust Fund. The financial

institution must (1) state the factual and legal basis for the relief sought in its petition and (2) serve the petition on the attorney general when filing it in the court.

Compliance With Escrow Requirements

Under the bill, these provisions must not be construed to (1) waive the state’s right to bring a claim against a tobacco product manufacturer for failing to place required funds into escrow or (2) relieve a tobacco product manufacturer from any past, current, or future obligations it may have under the tobacco settlement law. Any assigned funds must be credited dollar-for-dollar against any judgment or settlement that applies to the escrow obligation the assigned funds were initially deposited to satisfy.

Agent for Service of Process Requirement

The bill requires any nonparticipating manufacturer that maintains a qualified escrow fund to appoint and continually engage the services of an agent for service of process in Connecticut for all legal proceedings arising out of the tobacco settlement law’s enforcement. The law already requires nonparticipating manufacturers to do so as a condition of selling their products in the state. As under current law, service on these agents is legal and valid service of process on the nonparticipating manufacturer. The nonparticipating manufacturer must provide the agent’s name, address, telephone number, and proof of appointment and availability to the revenue services commissioner and attorney general.

As under current law for nonparticipating manufacturers whose products are currently sold in the state, if a nonparticipating manufacturer whose products were previously sold in Connecticut does not comply with this requirement, the bill makes the secretary of the state its agent.

BACKGROUND

JUUL Settlement Funds

Connecticut is part of a recently approved \$438.5 million multistate settlement with JUUL Labs, a manufacturer of e-cigarette and vapor products. Thirty-four states and U.S. territories have signed on to the

agreement. The state is expected to receive at least \$16.2 million over a six- to 10-year period and must use the funds for cessation, prevention, and mitigation.

Opioid Settlement Advisory Committee

By law, the Opioid Settlement Advisory Committee ensures (1) Opioid Settlement Fund moneys are allocated and spent on specified substance use disorder abatement purposes and (2) robust public involvement, accountability, and transparency in allocating and accounting for the fund’s moneys.

The committee consists of 31 state and local government officials and six public members and is chaired by the DMHAS commissioner and a municipal representative. The committee must meet quarterly and annually report to the Appropriations and Public Health committees on the fund’s activities.

Regional Behavioral Health Action Organizations

By law, the state’s five contracted RBHAOs are responsible for (1) behavioral health planning, education, and promotion; (2) coordinating behavioral health issues prevention; and (3) advocacy for behavioral health needs and services within their respective mental health regions.

Related Bill

sHB 6730, favorably reported by the Public Health Committee, contains identical provisions on the Tobacco and Health Trust Fund’s board and statutory purpose.

HB 6924, favorably reported by the Finance, Revenue and Bonding Committee, contains identical provisions on tobacco product manufacturers.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute

Yea 37 Nay 0 (03/27/2023)