

TOBACCO SETTLEMENT PROCEEDS



AN ISSUE BRIEF FROM LEGISLATIVE BUDGET BOARD STAFF

ID: 3107

APRIL 2016

OBJECTIVE

In 1996, Texas filed a federal lawsuit against the American Tobacco Company et al., and settled via the Comprehensive Settlement Agreement (CSA) in 1998. Part of the reparations includes payments from the tobacco industry to the state of Texas and local governments. This brief examines the proceeds from the tobacco settlement.

KEY FACTS

- ◆ Tobacco Settlement Receipts are directed to General Revenue–Dedicated Account No. 5040, Tobacco Settlement Fund. These payments are General Revenue Funds and continue in perpetuity.
- ◆ The Seventy-sixth Legislature, 1999, established 21 endowments with money from the settlement to provide that the interest would be appropriated to various state entities.

BUDGETARY IMPACT

Tobacco settlement collections in the 2014–15 biennium were \$986.0 million, 92.0 percent of the state's collections from all settlement claims.

STATUTORY REFERENCES

The State of Texas v. The American Tobacco Company et al., No. 5–96CV–91 (U.S. District Court, Texarkana Division)

In 1999, Texas began receiving payments as a result of a lawsuit against tobacco manufacturers. Several endowments were also established with proceeds from the settlement.

BACKGROUND OF TOBACCO LAWSUITS

In 1998, the Tobacco Master Settlement Agreement (MSA) resulted from litigation between 46 states, five territories, and numerous tobacco product manufacturers. The lawsuits asserted many claims but can be summarized as states claiming reparation for tobacco-related health costs as a result of deceptive trade practices on the part of the tobacco industry. Texas, Florida, Minnesota, and Mississippi settled individually with the tobacco manufacturers before the agreement, and each state has its own settlement that is not part of the MSA.

TEXAS LAWSUIT AND SETTLEMENT

In 1996, the Office of the Attorney General sued the tobacco industry on behalf of the state of Texas to recover money the state had expended to treat tobacco-related illnesses. In January 1998, the state entered into a settlement agreement with the defendants in the state's action against tobacco manufacturers. The money associated with the tobacco settlement can be classified into three groups: payments to the state; funds to assist local political subdivisions providing indigent healthcare; and a series of permanent endowments. Four main funds are associated with these groups: the Tobacco Settlement Fund, the Tobacco Settlement Permanent Trust Fund, the Permanent Public Health Fund, and the Permanent Health Fund.

A result of the agreement was the establishment of a series of payments to be made by the defendants to the state. These payments are directed to General Revenue–Dedicated Account No. 5040, Tobacco Settlement Fund, and the schedule is outlined in the settlement agreement. Future payments are subject to price, sales volume, and tobacco company profitability adjustments. These adjustment factors cause actual Tobacco Settlement revenue collections to deviate from the original payment schedule as they rise or fall in proportion to U.S. consumption of cigarettes each year as compared to consumption in 1997.

The settlement also directed funds to assist local political subdivisions and hospital districts responsible for providing indigent healthcare to the general public. The Seventy-sixth Legislature, 1999, passed House Bill 1161, which established the Tobacco Settlement Permanent Trust Fund, along with an advisory committee. The fund is held outside the Treasury and is managed by the Comptroller of Public Accounts (CPA), through the Texas Treasury Safekeeping Trust Company (TTSTC) with the guidance of the 11-member Tobacco Settlement Permanent Trust Account Investment Advisory Committee. The Texas Administrative Code, Title 25, Chapter 102, establishes an annual distribution formula of tobacco settlement money for eligible cities, counties, and hospital districts based upon the amount of unreimbursed indigent healthcare they report to the Texas Department of State Health Services.

The Seventy-sixth Legislature also established various permanent endowment funds, whose corpus consists of deposits from the initial settlement. These funds are outside the Treasury and managed by CPA (through TTSTC), The University of Texas Investment Management Company (UTIMCO), or the individual institutions associated with the endowments. The funds managed by the TTSTC include the Permanent Public Health Fund; the Permanent Fund for Higher Education Nursing, Allied Health, and Other Health-Related Programs; and the Permanent Fund for Minority Health Research and Education. The Permanent Public Health Fund is a collection of five different endowments to support state-administered, health-related programs. The other two endowments fund grants for nursing, allied health, or other health-related education and research; or educational programs relating to minority health at public institutions of higher education. UTIMCO manages the Permanent Health Fund, which is a collection of public endowments to support research and other programs at institutions of higher education. Other endowment funds managed by the individual institutions include: the Permanent Endowment Fund for the Texas A&M University Health Science Center; the Permanent Endowment Fund for the University of North Texas Health Science Center at Fort Worth; the Permanent Endowment Fund for the Texas Tech University Health Sciences Center in El Paso; the Permanent Endowment Fund for the Texas Tech University Health Sciences Center – Locations other than El Paso; and the Permanent Endowment Fund for the Baylor College of Medicine.

LOCAL IMPACT

As discussed previously, cities, counties, and hospital districts receive annual distributions to assist with indigent healthcare. In 2015, \$55.0 million was distributed to these local subdivisions.

REVENUE USES

Payments to the state from the settling manufacturers continue indefinitely. These payments are deposited to General Revenue–Dedicated Account No. 5040 and average approximately \$486.0 million a year. The General Revenue–Dedicated Account No. 5040 ending balance for fiscal year 2015 was \$109.0 million. The Tobacco Settlement Permanent Trust Fund was valued at \$2.3 billion at the end of fiscal year 2015. The fund distributes 4.5 percent of the five-year average fund value to local political subdivisions, mainly hospital districts. The Permanent Public Health Fund was valued at \$312.6 million at the end of fiscal year 2015. It makes an annual distribution that is divided among five General Revenue–Dedicated accounts: Account No. 5044, the Permanent Fund for Health and Tobacco Education and Enforcement; Account No. 5045, the Permanent Fund for Children and Public Health; Account No. 5046, the Permanent Fund for Emergency Medical Services and Trauma Care; Account No. 5047, the Permanent Fund for Rural Health Facility Capital Improvement; and Account No. 5048, the Permanent Hospital Fund for Capital Improvements and the Texas Center for Infectious Disease. In addition to those funds, the Permanent Public Health Fund also distributes money to the Cancer Prevention and Research Institute of Texas (CPRIT) to pay debt service. The Permanent Health Fund was valued at \$1,075.7 million at the end of fiscal year 2015. The fund distributes money to eligible institutions of higher education to support medical research, health education, and public health.

CONTACT

Alison Gilliam Email: IssueBrief@lbb.state.tx.us