

## **BILL ANALYSIS**

Senate Research Center

S.B. 1423  
By: Brown, J. E. "Buster"  
Finance  
3/20/2001  
As Filed

### **DIGEST AND PURPOSE**

Under the comprehensive settlement agreement tobacco companies who were settling defendants are required to make perpetual payments to the State of Texas. The settlement agreement is driven by domestic cigarette shipments and functions like a tax on cigarettes. As proposed, S.B. 1423 authorizes the comptroller to sell and assign all or a portion of the state's right in and to tobacco revenue with the proceeds of such a sale being deposited and applied in accordance with the General Appropriations Act or as otherwise directed by the legislature.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 403G, Government Code, by adding Section 403.1070, as follows:

Section 403.1070. SALE AND ASSIGNMENT OF TOBACCO REVENUES.

(a) Authorizes the state, acting through the state comptroller, to sell and assign all or a portion of the state's rights in and to tobacco revenues to a nonprofit corporation satisfying the eligibility requirements of Subsection (b) below. Requires such sale to be conducted in such manner and on such terms as are approved by the state comptroller, provided that such sale be without recourse to the state or any agency thereof. Requires that the proceeds of such sale be deposited and applied in accordance with the General Appropriations Act or as otherwise directed by the legislature.

(b) Requires that a nonprofit corporation eligible to purchase tobacco revenues from the state be created by the comptroller under this section to act on behalf of the state pursuant to the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., V.T.C.S.), provided that the articles of incorporation and bylaws of the nonprofit corporation meet certain requirements.

(c) Provides that in recognition of the state's interest in the fiscal integrity of the nonprofit corporation purchasing tobacco revenues from the state all revenue bonds issued by such nonprofit corporation are subject to approval by the attorney general and registration by the comptroller in the manner and with the effect set forth in Chapter 1202 (Examination and Registration of Public Securities), Texas Government Code; all directors of the nonprofit corporation are subject to Chapter 572 (Personal Financial Disclosure, Standards of Conduct, and Conflict of Interest), Government Code; and the state auditor is required to perform an annual financial audit of the financial transactions of the nonprofit corporation and furnish a copy of such audit to the comptroller.

(d) Provides that as used in this section, "tobacco revenues" means revenue received

by the state under the Comprehensive Settlement Agreement and Release filed in the case styled *The State of Texas v. The American Tobacco Co., et al.*, No. 5-96CV-91, in the United States District Court, Eastern District of Texas.

SECTION 2. Effective date: upon passage or September 1, 2001.