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SENATE BILL 6541

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State of Washington                      59th Legislature                      2006 Regular Session

By Senators Prentice and Zarelli

Read first time 01/13/2006. Referred to Committee on Ways & Means.

1            AN ACT Relating to appeal bond requirements involving judgments  
2 against signatories of the tobacco master settlement agreement; adding  
3 a new section to chapter 43.340 RCW; creating new sections; and  
4 declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6            NEW SECTION.    **Sec. 1.** (1) The legislature finds that:

7            (a) Over the past five years, Washington has received more than  
8 seven hundred million dollars from the tobacco master settlement  
9 agreement;

10           (b) While the state has securitized a portion of the moneys it was  
11 promised under the master settlement agreement, the remainder of the  
12 master settlement agreement payments is used to fund important health  
13 programs such as the state's basic health plan, children's health  
14 insurance, childhood vaccines, and public health;

15           (c) Litigation now pending in the state or filed in the future  
16 could result in damage awards against master settlement agreement  
17 signatories or their successors or affiliates that are so large that  
18 the defendants could obtain a stay of the execution of the judgment

1 while they appeal only by declaring bankruptcy, rather than posting an  
2 appeal bond under state law;

3 (d) Should a master settlement agreement signatory declare  
4 bankruptcy, issues might be raised about whether that disrupts or  
5 jeopardizes the payments that fund important state programs;

6 (e) The legislature has the substantive obligation to raise revenue  
7 and to protect the financial well-being of the state and its citizens.  
8 Pursuant to that obligation, it is the legislature's responsibility to  
9 ensure the continued receipt of master settlement agreement funds to  
10 the maximum extent possible.

11 (2) Therefore, the legislature intends to place a maximum limit on  
12 the appeal bond a master settlement agreement signatory or a successor  
13 or affiliate of a master settlement agreement signatory can be required  
14 to post in litigation in order to stay execution of the judgment  
15 without being forced into bankruptcy while it exercises its right to  
16 appeal an adverse judgment.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.340 RCW  
18 to read as follows:

19 (1) Except as provided in subsection (2) of this section, in order  
20 to secure and protect the moneys to be received as a result of the  
21 master settlement agreement in civil litigation under any legal theory  
22 involving a signatory, a successor of a signatory, or any affiliate of  
23 a signatory to the master settlement agreement, the supersedeas bond to  
24 be furnished in order to stay the execution of the judgment during the  
25 entire course of appellate review shall be set in accordance with  
26 applicable laws or court rules, except that the total bond that is  
27 required of all appellants collectively shall not exceed one hundred  
28 million dollars, regardless of the value of the judgment.

29 (2) If an appellee proves by a preponderance of the evidence that  
30 an appellant is dissipating assets outside the ordinary course of  
31 business to avoid the payment of a judgment, a court may require the  
32 appellant to post a bond in an amount up to the amount of the judgment.

33 NEW SECTION. **Sec. 3.** This act applies to all actions pending on  
34 or filed on or after the effective date of this section.

1        NEW SECTION.   **Sec. 4.**   This act is necessary for the immediate  
2   preservation of the public peace, health, or safety, or support of the  
3   state government and its existing public institutions, and takes effect  
4   immediately.

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