Legislative Analysis

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MOTOR FUEL TAX ACT

Senate Bill 1074 as enacted
Public Act 268 of 2006
Sponsor: Sen. Jud Gilbert, II
Senate Committee: Technology and Energy
House Committee: Agriculture

Complete to 12-12-06

A SUMMARY OF SENATE BILL 1074 AS ENACTED

Senate Bill 1074, enacted as Public Act 268 of 2006, would amend the Motor Fuel Tax Act (Public Act 403 of 2000) to create a lower tax rate for certain alternative motor fuels (ethanol and biodiesel).

BACKGROUND INFORMATION:

Senate Bill 1074 creates a 7-cent tax rate differential between gasoline and ethanol (i.e. gasoline containing at least 70 percent ethanol), and a 3-cent tax rate differential between diesel fuel and biodiesel (i.e. diesel fuel containing at least 5 percent biodiesel). Under provisions of the bill, effective September 1, 2006, ethanol and biodiesel will be taxed at 12 cents per gallon, instead of at 19 cents and 15 cents for gasoline and diesel fuel, respectively.

Although the motor fuel taxes imposed by the Motor Fuel Tax Act are collected from fuel suppliers, they are reflected in the pump price of fuel. Motorists who purchase fuel in Michigan effectively pay motor fuel taxes "at the pump." (See analysis of Senate Bill 1362 for an analysis of the related amendment to the Motor Carrier Fuel Tax Act).

FISCAL IMPACT:

Senate Bill 1074 establishes a reduced tax rate for ethanol and biodiesel until: 1) 10 years after the bill's effective date i.e. 9/1/2016, or 2) four months after the date on which the Department of Treasury certifies that the amount of revenue "lost" because of the reduced rate is $2.5 million, whichever is earlier. These provisions would appear to limit the amount of revenue loss to the state to $2.5 million over 10 years.

Revenue from both the Motor Fuel Tax Act and the Motor Carrier Fuel Tax Act is credited to the Michigan Transportation Fund (MTF) established under Public Act 51 of 1951 for state and local transportation programs. Both Senate Bill 1074 and Senate Bill 1362 would require the legislature to annually appropriate to the MTF (presumably from the state General Fund) the amount of revenue lost because of the reduced rate to the MTF. If the legislature does not do this, the reduced rate would cease beginning the first calendar year after the fiscal year in which the appropriation should have been made.

As noted above, the bills appear to limit the net revenue loss to the state to $2.5 million over 10 years. However, the bills direct the State Treasurer (or Department of Treasury) to annually certify the amount of the "cumulative rate differential due to the differential rates…" It would appear to be possible that by the time the Treasurer makes an annual certification, the cumulative rate differential may have exceeded $2.5 million.

The provisions of Senate Bill 1074 and Senate Bill 1362 requiring the legislature to make an annual appropriation to the MTF of the amount of the rate differential are in conflict with provisions of Section 10 of Act 51 which identify the revenue sources for credit to the MTF and which prohibit the deposit of other monies from any other source, including the state General Fund, into the MTF.

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