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BILL ANALYSIS



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Senate Bill 705 (as reported without amendment)
Sponsor: Senator Cameron S. Brown
Committee: Technology and Energy

Date Completed: 11-18-05

RATIONALE

Environmental concerns, economics, and geopolitical factors have contributed to increased interest in alternative energy sources. As demand for oil increases globally, access to it is threatened by conflicts in the Middle East and elsewhere, as well as natural disasters such as the recent hurricanes in the Gulf of Mexico. From an environmental perspective, the pollution caused by burning petroleum products calls for cleaner fuel sources. Many people are particularly interested in the development of alternative energy, including hydrogen fuel cells, to power motor vehicles. The future of this technology, however, faces a number of challenges, including the lack of infrastructure. Consumers will not want to buy hydrogen-powered vehicles if refueling is inconvenient, and businesses will not want to invest in constructing hydrogen fuel stations if the popularity of the vehicles is questionable. It has been suggested that the State be required to examine the feasibility of establishing in the near future a highway along which hydrogen fueling stations would be located.

CONTENT

The bill would amend Public Act 51 of 1951, the Michigan Transportation Fund Law, to require the Michigan Department of Transportation (MDOT) to analyze the tasks to be undertaken to establish a hydrogen highway in this State by the year 2010.

Under the bill, a hydrogen highway would be a highway that provided hydrogen fueling stations at designated locations no farther

than 20 miles apart along the length of the highway.

By June 1, 2007, MDOT would have to submit to the Legislature a written report containing all of the following:

- The potential highways to be designated hydrogen highways.
- The geographic locations for fueling stations.
- Expected vehicle use.
- Possible funding sources for the fueling stations, including Federal and private sources.
- Further recommendations for legislation to assist in the development of a hydrogen highway in this State.

Proposed MCL 247.651j

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Many people agree that dependence on gasoline to run vehicles is problematic in that oil is a finite resource and will one day become scarce. Further, many agree that the burning of this fuel over a period of time has polluted the air, increased the "greenhouse" effect on the atmosphere, and caused a number of other environmental problems. Though opinions vary widely concerning the length of time existing resources will last and the degree of environmental damage to date, given the widespread belief that increased use of nonrenewable fuels is unwise, and perhaps

damaging, numerous individuals, private concerns, and governments have spent many years and millions of dollars searching for and researching alternative energy sources. While the development of alternative energy technologies has advanced, none has replaced traditional power production on a mass scale. Nevertheless, some believe that the conversion from fossil fuel dependence to alternative energy sources may be near.

The hydrogen fuel cell is an innovative technology that is attracting much attention and investment, and automobile manufacturers have an interest in developing vehicles powered by fuel cells instead of internal combustion engines. Several other states have implemented various initiatives to encourage the use of alternative fuels. As the traditional center of the automotive industry, Michigan is in a position to play a vital role in the transition to an economy based on hydrogen.

Diversifying fuel sources and transforming hydrogen into a viable possibility in the near future is an enormous, but attainable, undertaking; thus, planning should begin now. One of the critical issues is the construction of and access to infrastructure. The bill would require MDOT to take an important first step in implementing a long-term energy plan.

Response: Perhaps the bill should require the study to include all alternative fuels, not just hydrogen. The State and private companies have made significant investments in other alternative fuels, such as ethanol and biodiesel. The proposed highway would be an effective way to promote all options and increase fuel diversity.

Opposing Argument

Article IX, Section 9 of the State Constitution requires at least 90% of motor vehicle fuel taxes, except general sales and use taxes and regulatory fees, to be spent exclusively for the transportation purposes of planning, administering, constructing, reconstructing, financing, and maintaining State, county, city, and village roads, streets, and bridges, and reasonable appurtenances. The balance must be used exclusively for comprehensive transportation purposes, as defined by law. Under the Michigan Transportation Fund law (PA 51 of 1951), "comprehensive transportation

purpose" means the movement of people and goods by publicly- or privately-owned water vehicle, bus, railroad car, rapid transit vehicle, taxicab, aircraft, or other conveyance that provides general or special service to the public (MCL 247.660c). According to MDOT, it is unclear whether the proposed study would fall within those activities. The Department has cited a 1979 Michigan Court of Appeals opinion, *County Road Association of Michigan v Department of Transportation* (94 Mich App 242) as the basis for its concerns. In that case, the County Road Association brought a proceeding to prevent MDOT from funding an emissions testing program for the State's light-duty vehicle fleet with fuel and weight tax revenue. The Association argued that the program did not fall within the purposes specified in the Constitution. The Court agreed, stating that MDOT "...has not shown that the study has any substantial 'transportation' or 'comprehensive transportation' purposes." Apparently, MDOT is worried that a similar argument could be raised with regard to the bill. Perhaps the bill should include an appropriation for private consulting services.

Response: The study proposed by the bill is distinctly different from the emissions study challenged in the 1979 case. The location of hydrogen fueling stations would be sufficiently transportation-related, decreasing the likelihood that a legal issue would impede implementation of the bill's requirements.

Legislative Analyst: Julie Koval

FISCAL IMPACT

The bill would result in increased administrative costs to MDOT associated with the requirement to submit a written report to the Legislature by June 1, 2007.

Fiscal Analyst: Craig Thiel

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.