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## BILL ANALYSIS

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House Bill 6074 (Substitute S-4)  
Sponsor: Representative Marc Shulman  
House Committee: Appropriations  
Senate Committee: Appropriations

Date Completed: 9-21-04

**CONTENT**

**The bill would amend Part 215 (Underground Storage Tank Financial Assurance) of the Natural Resources and Environmental Protection Act to create a new sunset on the collection of a regulatory fee on refined petroleum products, reduce that regulatory fee from 7/8 of a cent per gallon to 3/4 of a cent per gallon, and revise the uses of the revenue; create the "Refined Petroleum Fund"; and create the Refined Petroleum Cleanup Advisory Council. The bill also would retitle Part 215 "Refined Petroleum Fund".**

Currently, the State has collected sufficient revenue from a 7/8-cent per gallon fee on refined petroleum products distributed in this State to pay off the bonds and notes supporting the Michigan Underground Storage Tank Financial Assurance (MUSTFA) Authority. The repayment schedule has retirement of the bonds set for 2010, although the provisions of the bond agreements allow the bonds to be paid in full as early as 2006. The statute requires the Department of Treasury to stop collecting the regulatory fee when it has received sufficient revenue to pay in full all obligations. The Act establishing the MUSTFA Finance Authority and the environmental protection regulatory fee will be repealed when the State Treasurer files with the Secretary of State a notice of final payment of all of the obligations lawfully payable from the Fund. At that time, the balance of the Fund will be deposited into the Environmental Response Fund.

Under the bill, the proposed Refined Petroleum Fund would receive all fee revenue beginning on the bill's effective date of this act until the fee sunset on December 31, 2010. The MUSTFA Fund would continue to be used to pay off the outstanding bonds. The bill would require the State Treasurer to purchase United States Treasury obligations in an amount sufficient, together with interest on the obligations, to defease principal and interest due and owing on the bonds. Once the amount required was determined, the remaining balance of the MUSTFA Fund would be transferred to the Refined Petroleum Fund.

The bill would eliminate the provision requiring the State Treasurer to file with the Secretary of State a notice of final payment of all obligations lawfully payable from the MUSTFA Fund and the repeal of Part 215 on that date. The bill also would remove the requirement that the Department of Treasury stop collecting the regulatory fee when it has received sufficient revenue to pay in full all obligations of the Fund and the specification that the Fund be used only for cleanup and prevention of environmental contamination resulting from releases of refined petroleum products from underground storage tank systems and to pay off related bonds or notes. In addition, the bill would delete the provision transferring the balance of the MUSTFA Fund to the Environmental Response Fund once the bonds are retired.

The bill would continue the environmental regulatory fee at 3/4 of a cent instead of 7/8 of a cent and with revised objectives and legislative intent. Revenue from the fee would be

deposited into the Refined Petroleum Fund, which could receive money or assets from any source. Interest and earnings on the balance of the Fund would be credited to it and money in the Fund at the close of the fiscal year would stay in the Fund and not lapse the General Fund. Authorized uses of the Refined Petroleum Fund would be: 1) gasoline inspection programs under the Weights and Measures Act and the Motor Fuels Quality Act; 2) corrective actions necessary to address releases of refined petroleum products under the refined petroleum cleanup program established following issuance of recommendations from the Council; and 3) reasonable administrative costs of the Department of Environmental Quality (DEQ), the Department of Agriculture, the Department of Attorney General, and the Department of Treasury in administering the Refined Petroleum Fund and in implementing the programs receiving revenue from the Fund.

The bill would create the Refined Petroleum Cleanup Advisory Council with seven members appointed within 60 days of enactment: three appointed by the Governor, two appointed by the Senate Majority Leader, and two appointed by the Speaker of the House. A representative of the petroleum industry would have to be appointed by each. The members of the Council would serve until a successor was appointed and would receive no compensation, but could be reimbursed for actual or necessary expenses incurred in the performance of their official duties. The first meeting of the Council would be called by the DEQ Director. The members would elect a chairperson and other officers the Council considered necessary. The Council would meet at least quarterly, or more frequently as requested by the chairperson or at least two members of the Council. Five members would constitute a quorum and a majority of the members appointed would be required for official action of the Council.

The bill would require the Council, as soon as practical, but not later than 60 days after all seven members had been appointed, to make a recommendation to the Governor and the Legislature on how to expend the money transferred from the MUSTFA Fund to the Refined Petroleum Fund less any amounts appropriated for FY 2003-04.

The bill also would require the Council, by April 1, 2005, to submit to the Governor and the Legislature a report that: (a) evaluated and made recommendations for a refined petroleum cleanup program that would provide for corrective actions necessary to address releases of refined petroleum products. The program shall be designed to benefit owners and operators and to provide for corrective actions at locations for which a liable party has not been identified or is insolvent; (b) recommended appropriate limitations on administrative costs for programs with appropriations from the Refined Petroleum Fund; and (c) recommended updates to obsolete provisions of Part 215. The Council would be dissolved 180 days after submission of the report and the statutory section establishing the Council would be repealed on August 1, 2006.

The bill also would make technical updates to statutory references and would remove outdated language regarding the Emergency Response Fund. The bill includes an enacting section specifying that the extension of the regulatory fee be applied retroactively and that the requirement to impose and collect the fee shall not be considered to have ceased at any time since it was originally enacted into law.

MCL 324.21314a et al.

## **BACKGROUND**

The MUSTFA program was created in 1988 to assist owners and operators of underground storage tanks with new Federal regulations requiring the demonstration of the financial ability of owners or operators to cover cleanups or judgments for environmental damage caused by underground storage tank releases. Revisions to the program in the mid-1990s allowed use of revenue bonds since claims far exceeded the income to the Fund. All of the

claims have been settled and paid. The remaining obligation is payment of the debt service on the bonds.

The statute prioritizes expenditures of the MUSTFA Fund for the following uses:

1. Payment of bonds or notes and maintenance of any required debt reserves.
2. Reasonable administrative costs, not to exceed 7% of annual projected revenues.
3. Payment of rewards under Section 21549 (for providing information contributing to a fine or conviction).
4. Interest subsidy payments to lenders on loans to owners or operators for the replacement of a petroleum underground storage tank system, not to exceed 10% of annual projected revenues.
5. Corrective action and indemnification for site claims submitted before 5 p.m. on June 29, 1995.

### **FISCAL IMPACT**

The 7/8-cent per gallon regulatory fee generates approximately \$60 million annually. The bill would continue collection of the fee through December 31, 2010. The estimated balance of the MUSTFA Fund at the end of FY 2003-04 is \$200 million with \$104 million in bond debt principal outstanding. Including principal and interest, a total of \$124 million would be required to retire the bonds if they were paid off in full in 2006. An estimated \$75 million would be transferred to the Refined Petroleum Fund under the bill. The Council would determine the expenditure of \$45 million, since \$30 million is appropriated in FY 2003-04 for debt service on Clean Michigan Initiative bonds.

The FY 2004-05 budget for the Department of Environmental Quality includes an appropriation of \$11,921,000 from the Refined Petroleum Fund. This appropriation is spread over many programs. The FY 2004-05 budget for the Department of Agriculture includes \$3.0 million from the Refined Petroleum Fund to support the consumer protection program, which includes the motor fuel quality program and the weights and measures program. The FY 2004-05 budget for the Department of Treasury includes \$23,914,500 from the Refined Petroleum Fund to pay for debt service costs for the Clean Michigan Initiative and Environmental Protection general obligation bonds. The expanded purposes of the Fund, as proposed in the bill, would allow these expenditures. The appropriations from the Refined Petroleum Fund were part of the Target Agreement on the statewide FY 2004-05 budget. A total of \$43,035,500 is appropriated from the Fund for FY 2004-05 and \$30.0 million for FY 2003-04.

A fee of 3/4 of a cent per gallon would generate approximately \$51.4 million annually. This is \$8.6 million less than would be collected if the fee remained at 7/8 of a cent per gallon. The revenue would be sufficient to cover FY 2004-05 appropriations from the Refined Petroleum Fund, but would reduce funds available for cleanup and administrative costs in future fiscal years.

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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.