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BILL ANALYSIS

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Senate Bill 1074 (Substitute S-5 as reported by the Committee of the Whole)
Senate Bill 1075 (Substitute S-1 as reported by the Committee of the Whole)
Senate Bill 1076 (Substitute S-3 as reported by the Committee of the Whole)
Senate Bill 1077 (as reported without amendment)
Senate Bill 1078 (Substitute S-5 as reported by the Committee of the Whole)
Senate Bill 1079 (Substitute S-4 as reported by the Committee of the Whole)
Sponsor: Senator Jud Gilbert, II (S.B. 1074)
Senator Wayne Kuipers (S.B. 1075)
Senator Ron Jelinek (S.B. 1076)
Senator Jim Barcia (S.B. 1077)
Senator Bruce Patterson (S.B. 1078)
Senator Cameron S. Brown (S.B. 1079)
Committee: Technology and Energy

CONTENT

Senate Bill 1074 (S-5) would amend the Motor Fuel Tax Act to do the following:

-- Temporarily impose a 12-cents-per-gallon tax on gasoline that is at least 70% ethanol and diesel that contains at least 5% biodiesel (B5).
-- Temporarily allow a licensed supplier to claim a deduction of three cents per gallon for diesel containing at least 5% biodiesel, and seven cents per gallon for gasoline containing at least 70% ethanol.
-- Require an annual determination of the difference between the amount of revenue collected under the bill and the amount that would have been collected under existing tax provisions.
-- Require the Legislature to appropriate the amount of the difference to the Michigan Transportation Fund (MTF).
-- Prescribe requirements for bills of lading and invoices.
-- Provide that Michigan facilities that produce motor fuel and distribute it from a rack would be considered terminals and would be subject to the Act's license and reporting requirements; and that all position holders in those facilities would have to be licensed as suppliers and comply with the Act's supplier requirements.
-- Provide that a person who imported into Michigan or withdrew diesel containing at least 5% biodiesel or gasoline containing at least 70% ethanol from a rack would be considered a supplier and would have to comply with the Act's license and reporting requirements.

The 12-cents-per-gallon tax would be imposed instead of the taxes of 19 cents per gallon and 15 cents per gallon imposed currently on gasoline and diesel, respectively. The 12-cent tax would no longer be effective 10 years after the bill's effective date, or beginning four months after the date the Department of Treasury certified that the total cumulative rate differential was greater than $2.5 million, whichever was earlier. If the Legislature did not annually appropriate the amount determined as the rate differential to the MTF, the 12-cent tax would no longer be effective at the beginning of the first calendar year after the fiscal year in which the required annual appropriation was not made.

The refund rate provisions for a licensed supplier would no longer be effective either 10 years after the bill's effective date, or the date that the State Treasurer certified that the total cumulative rate differential was greater than $2.5 million, whichever was earlier. The Legislature annually would have to appropriate the amount determined as the rate differential within 60 days of the certification to the MTF. If the Legislature did not make the required annual appropriation within that time period, the refund rate provisions would no longer be effective.

The bill would take effect on the first day of the month immediately succeeding the month in which it was signed by the Governor and filed with the Secretary of State. The bill is tie-barred to House Bill 5755, which would amend the Motor Fuels Quality Act to extend to diesel and specified alternative fuels regulations concerning the quality, storage, manufacture, delivery, and sale of gasoline; and require firms selling hydrogen in Michigan to register with and be approved by the Department of Agriculture.

Senate Bill 1075 (S-1) would amend the Management and Budget Act to require the Director of the Department of Management and Budget, by January 1, 2007, to install the necessary fueling infrastructure, or contract with a supplier to supply alternative fuels, at all State motor transport facilities so that all State-owned vehicles capable of using alternative fuels were able to use them.

"Alternative fuel" would mean E85 fuel and biodiesel fuel blends.

Senate Bill 1076 (S-3) would amend the Michigan Strategic Fund Act to require the Fund to create and administer a retail service station grant program to provide incentives to service station owners and operators to convert existing fuel delivery systems, and to create new fuel delivery systems, designed to provide E85 fuel.

A grant could not exceed 50% of the costs to convert an existing fuel delivery system to provide E85 fuel or biodiesel blend, not to exceed $2,000 per facility. A grant could not exceed 50% of the new construction costs to create a fuel delivery system, not to exceed $15,000 per facility for E85 or $5,000 per facility for biodiesel blend.

The Fund also would have to create and administer a bulk plant grant program to provide incentives to bulk plant owners and operators to convert existing systems and create new systems to provide biodiesel blends. A grant could not exceed 50% of the costs to convert an existing fuel delivery system, not to exceed $2,000 per facility; and 50% of the new construction costs to create a delivery system, not to exceed $15,000 per facility.

Both grant programs would have to provide for a contractual provision requiring the recipient to repay a portion of the grant, calculated as established in the bill, if the recipient stopped using the fuel delivery system to provide E85 or biodiesel blend within three years of receiving the grant.

The Fund initially would have to fund the grant programs with a maximum combined amount of $500,000 in fiscal year 2006-07.

Senate Bill 1077 would create the "Fuels of the Future Commission Act" to establish the Fuels of the Future Commission within the Michigan Department of Agriculture (MDA). The proposed Act would be repealed on January 1, 2010.

The Commission would have to investigate and recommend strategies that the Governor and the Legislature could implement to promote the use of alternative fuels and encourage the use of vehicles that used alternative fuels. The Commission also would have to identify mechanisms that promoted alternative fuel research.

Additionally, the Commission would have to identify mechanisms that promoted effective communication and coordination of efforts between the State and local governments, private industry, and institutes of higher education concerning the investigation of, research into, and promotion of alternative fuels.

The Commission could review any State regulation that could hinder the use, research, and development of alternative fuels and vehicles that were able to use them, and recommend changes to the Governor.

Within one year after the bill's effective date, the Commission would have to issue to the Legislature and the Governor a written report on its investigation and recommendations. Follow-up reports would have to be issued at leased annually.

Senate Bill 1078 (S-5) would amend the Michigan Renaissance Zone Act to allow the State Administrative Board, upon the recommendation of the Michigan Strategic Fund board, to designate up to 10 additional renaissance zones for renewable energy facilities in one or more cities, villages, or townships that consented to the creation of a renaissance zone within their boundaries.

The bill would define "renewable energy facility" as a system that creates energy from a process using residue from agricultural products, forest products, paper products industries, and food production and processing; trees and grasses grown specifically to be used as energy crops; and gaseous fuels produced from solid biomass, animal waste, a wind conversion device, photovoltaic cells, or landfills.

When designating a renaissance zone under the bill, the Board would have to consider all of the following:

-- The economic impact on local suppliers who supplied raw materials, goods, and services to the renewable energy facility.
-- The creation of jobs relative to the employment base of the community, rather than the static number of jobs created.
-- The viability of the project.
-- The economic impact on the community in which the facility was located.
-- All other things being equal, giving preference to a business entity already located in Michigan.
-- Whether the facility could be located in an existing renaissance zone.

The Board would have to require a development agreement between the Strategic Fund and the renewable energy facility that would include requirements that the facility comply with all State and local laws and report annually to the Fund, and any other reasonably required conditions or requirements.

Senate Bill 1079 (S-4) would amend the Motor Fuels Quality Act to extend to diesel and specified alternative fuels regulations concerning the quality, inspection, storage, manufacture, delivery, and sale of gasoline; require distributors and retail dealers of diesel and alternative fuels to obtain a license for each retail outlet; and require firms selling hydrogen in Michigan to register with and be approved by the Department of Agriculture.

MCL 207.1008 (S.B. 1074)
18.1213 (S.B. 1075)
Proposed MCL 125.2078 (S.B. 1076)
MCL 125.2863 et al. (S.B. 1078)
290.642 et al. (S.B. 1079)

Legislative Analyst: Julie Koval

FISCAL IMPACT

Senate Bill 1074 (S-5) would reduce fuel tax receipts by an indeterminate amount associated with the proposed tax on gasoline containing at least 70% ethanol, commonly referred to as "E70". All fuel tax revenue is deposited in the Michigan Transportation Fund (MTF), pursuant to the Michigan Constitution. Annual revenue to the MTF would be reduced based on the amount of E70 sold in Michigan. Currently, there are no data to indicate the amount of E70 sold in Michigan. Under the bill, all E70 fuel sold in Michigan would be taxed at 12 cents per gallon, as opposed to 19 cents per gallon. The MTF revenue reduction would increase as E70 sales increase.

Similarly, the bill would reduce MTF deposits associated with the proposed tax imposed on diesel fuel containing at least 5% biodiesel, commonly referred to as "B5". Under the bill, all B5 would be taxed at 12 cents per gallon, as opposed to 15 cents per gallon. Currently, there are no data to indicate the amount of B5 sold in Michigan; therefore, the impact on the MTF is indeterminate.

The proposed tax deductions of 7 cents for gasoline that contains at least 70% ethanol and 3 cents for biodiesel would reduce revenue to the MTF an unknown amount. The amount of the reductions would depend on the number of gallons of 70% ethanol gasoline or biodiesel fuel sold in the State. The tax deductions would double the cost of the tax rate reduction.

Under Public Act 51 of 1951, which governs the Michigan Transportation Fund, MTF revenue is distributed in the following manner, after certain statutory deductions: 10% to the Comprehensive Transportation Fund, 35% to the State Trunkline Fund, 35% to county road commissions, and 20% to city and village road agencies. Any reduction to MTF revenue resulting from this bill would be allocated by these same percentages.

The bill would cap the cumulative MTF revenue reduction resulting from the new fuel tax rates for E70 and B5 at $2.5 million and cap the revenue reduction from the tax deduction at $2.5 million, for a total of $5.0 million. The new tax rates or the tax deductions would no longer be effective 10 years after the bill's effective date or when the respective $2.5 million caps were reached, whichever was earlier. Due to the lack of data on E70 and B5 sales in Michigan, it is unknown when the caps would be reached.

The bill would require the Legislature annually to appropriate to the MTF the amount of lost fuel tax revenue, resulting from the taxes imposed on E70 and B5 and the amount of the lost revenue from the tax deduction. The bill does not specify how this appropriation would be funded. It is important to note that current restrictions in Section 10 of Public Act 51 of 1951 (MCL 247.660) prevent the MTF from receiving deposits from other funds. Therefore, the appropriation provision contained in the bill appears to conflict with current statutory language restricting MTF deposits.

The bill would require additional individuals to acquire a blender's license ($100), a terminal operator's license ($2,000), or a supplier's license ($2,000), as applicable. The additional revenue would depend on how many new licenses would be required by individuals.

Senate Bill 1075 (S-1) would result in an estimated cost to the State of $140,000 to $150,000 for the installation of fueling infrastructure to supply alternative fuels. The State currently has one State motor transport facility located at the Secondary Complex. Since alternative fuel (E85) is 20% less fuel efficient, the Department of Management and Budget estimates increased annual fuel costs of approximately $15,000.

Senate Bill 1076 (S-3) would allocate up to $500,000 for conversion and construction grants for both retail service stations and bulk plants. The bill does not identify a fund source for this grant program nor does it provide an allocation for future fiscal years. Currently the two major sources of revenue for the Michigan Strategic Fund include General Fund/General

Purpose revenue, which is appropriated, and Corporate Revenue primarily from Indian Casino gaming activities, which is not appropriated.

Senate Bill 1077 would have no fiscal impact on State or local government.

Senate Bill 1078 (S-5) would reduce State and local revenue by an unknown amount. The impact of the bill would depend on a number of factors, including where the additional renaissance zones would be located, the economic and tax characteristics of the renewable energy facilities that would be developed in each of these zones, whether other businesses would move their existing operations into a renaissance zone to become eligible for the various tax exemptions granted in these zones, and whether the zones would be drawn to include property other than renewable energy facility property.

In the near future, the fiscal impact of the bill is likely to be minimal. Few, if any, facilities that would meet the definition of a renewable energy facility currently exist in the State. Furthermore, it will take some time for businesses to expand or relocate into the proposed zones and the fiscal impact of the bill largely would depend upon the value of the investments made in the property within the zones.

In future years, the bill would reduce revenue to both the State and local units and would increase State expenditures from the General Fund. Most local property taxes previously levied in renaissance zones are not reimbursed by the State, leaving local units to deal with reduced revenue. However, the General Fund reimburses lost revenue to public libraries, intermediate school districts, local school districts, community colleges, and the School Aid Fund. Local school districts are able to levy 18 mills upon nonhomestead property, and the State education tax levies 6 mills on all property. Tax levies for the other reimbursed components can vary widely, although it is not uncommon for schools to levy an additional 6 to 12 mills in more rural areas, where these facilities may be more likely to be established. If $100 million of investments eventually were made in the new zones, the bill would increase State General Fund expenditures by at least $1.5 million per year, a portion of which would represent lost School Aid Fund revenue. Revenue losses, such as under the single business tax and individual income tax, are not reimbursed and are not included in this example; nor are local unit revenue losses that would not be reimbursed.

This estimate is preliminary and will be revised as new information becomes available.

Senate Bill 1079 (S-4) would result in increased costs in excess of $800,000 annually to the Michigan Department of Agriculture associated with the establishment and enforcement of fuel standards for certain fuels. This estimate was provided by the Department and does not include any capital investment associated with laboratory conversions/modifications required to regulate certain fuels. These additional costs would have to be borne by existing resources as the bill does not provide for any new revenue.

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