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BILL ANALYSIS

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Senate Bill 1074 (as introduced 2-23-06)
Sponsor: Senator Jud Gilbert, II
Committee: Technology and Energy

Date Completed: 2-27-06

CONTENT

The bill would amend the Motor Fuel Tax Act to do the following:

- -- **Impose a 12-cents-per-gallon tax on certain alternative fuels temporarily.**
- -- **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).**

Under the Act, a tax of 19 cents per gallon on gasoline and 15 cents per gallon on diesel fuel must be imposed on motor fuel imported into or sold, delivered, or used in this State. The bill would make an exception to these tax rates for gasoline that is at least 85% ethanol and diesel that contains at least five percent biodiesel. Those fuels would be taxed at a rate of 12 cents per gallon.

Beginning on the bill's effective date, the Director annually would have to determine the difference between the amount of motor fuel tax collected and the amount of motor fuel tax that would have been collected but for the differential rates established under the bill. The 12-cent tax would no longer be effective 10 years after the bill's effective date, or the date the Director certified that the total cumulative rate differential was greater than $2.5 million, whichever was earlier. (The term "director" is not defined in the Act or the bill.)

The Legislature annually would have to appropriate the amount determined as the rate differential to the MTF. If the Legislature did not appropriate annually the determined amount, the 12-cent tax would no longer be effective beginning the first fiscal year after the year in which the required annual appropriation was not made.

MCL 207.1008 Legislative Analyst: Julie Koval

FISCAL IMPACT

The bill would reduce fuel tax receipts by an indeterminate amount associated with the proposed tax on gasoline containing at least 85% ethanol, commonly referred to as "E85". 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 E85 sold in Michigan. Currently, there are no data to indicate the amount of E85 sold in Michigan. Under the bill, all E85 fuel sold in Michigan would be taxed at 12 cents per gallon, as opposed to 19 cents per gallon. As a point of reference, the Federal Highway

Administration estimates that about 1.5 billion gallons of gasohol (i.e., gasoline that contains at least 10% ethanol) was used in Michigan in 2003, the most recent year for which data are available. It is estimated that E85 comprised about 150,000 gallons of this quantity. Using these figures, the MTF revenue would be reduced by approximately $10,600 annually. The MTF revenue reduction would increase as E85 sales increase.

Similarly, the bill would reduce MTF deposits associated with the proposed tax imposed on diesel fuel containing at least five percent 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.

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 E85 and B5 at $2.5 million. The new tax rates would no longer be effective 10 years after the bill's effective date or when the $2.5 million cap was reached, whichever was earlier. Due to the lack of data on E85 and B5 sales in Michigan, it is unknown when the cap 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 E85 and B5. 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.

Fiscal Analyst: Craig Thiel