Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 1158 (Substitute S-1)
Senate Bill 1159 (Substitute S-1)
Sponsor: Senator Ron Jelinek
Committee: Agriculture

Date Completed: 5-14-08

CONTENT

Senate Bills 1158 (S-1) and 1159 (S-1) would amend the Motor Fuel Tax Act and the Motor Carrier Fuel Tax Act, respectively, to do the following:

-- Specify a beginning date of April 1, 2008, in provisions for reduced taxes on gasoline containing at least 70% ethanol and diesel fuel containing at least 5% biodiesel.
-- Extend the deadline for a person to claim a refund for the difference between the taxes imposed under the regular rates and the reduced rates on alternative fuels held in storage outside of the bulk transfer/terminal system.
-- Remove requirements that the reduced rates not go into effect for a given fiscal year if the Legislature does not appropriate to the Michigan Transportation Fund (MTF), for the previous 12-month period, the difference between the amount collected under the reduced rates and the amount that otherwise would have been collected.
-- Increase the maximum cumulative rate differential permitted under those provisions from $2.5 million to $5.5 million for biodiesel and $2.0 million for ethanol.
-- Remove requirements that the lower tax rates expire within 10 years after going into effect.

The bills are described in detail below.

Senate Bill 1158 (S-1)

Reduced Fuel Tax

The Motor Fuel Tax Act imposes a tax of 19 cents per gallon on gasoline and 15 cents per gallon on diesel fuel imported into or sold, delivered, or used in the State. The Act provides for a reduced tax of 12 cents per gallon on gasoline that is at least 70% ethanol and on diesel fuel that contains at least 5% biodiesel, subject to certain limits. (Provisions for the reduced rates were added by Public Act 268 of 2006, which took effect on September 1, 2006.)

Under the bill, the lower 12-cent per gallon rate would begin on April 1, 2008.

Refund

The Act provides that if the tax on gasoline containing at least 70% ethanol or diesel fuel containing at least 5% biodiesel held in storage outside of the bulk transfer/terminal system on September 1, 2006, previously has been paid at the regular rates, the person who paid the tax may claim a refund for the difference between those rates and the reduced rates described above.

The bill would remove the September 1, 2006, deadline. Under the bill, if the tax rate on that gasoline or diesel fuel were decreased and the tax had previously been paid at a higher rate, the person who paid the tax at the higher rate could claim a refund for the difference between the higher rate and the decreased rate.

The Act required a refund request to be filed within 60 days after September 30, 2006. Under the bill, a request would have to be filed within 60 days after the last day of the month in which the decrease in the rate took effect.

By 12:00 a.m. on September 1, 2006, a person who could claim a refund under the Act was required to take an inventory of gasoline containing at least 70% ethanol or undyed diesel fuel containing at least 5% biodiesel. The bill would remove that deadline.

Tax Differential Determination

Beginning September 1, 2006, the Act requires the State Treasurer to determine annually, for the 12-month period ending May 1, and for any additional times that the Treasurer may determine, the difference between the amount of motor fuel tax collected and the amount that would have been collected but for the differential rates described above.

Under the bill, that requirement would begin on April 1, 2009, for the 12-month period ending March 31, 2009.

The bill would require the State Treasurer to determine the differential within 30 days after the close of the 12-month period, and to determine how much of the rate differential was attributable to the reduced tax rate on gasoline containing at least 70% ethanol and how much was attributable to the tax rate on diesel fuel containing at least 5% biodiesel.

Within seven days after determining the rate differential, the State Treasurer would have to give notice of it to the chairs of the Appropriations Committees of the Senate and the House of Representatives, the chairs of the Senate and House Appropriations Subcommittees on Transportation, the Director of the Department of Agriculture, and the Senate and House Fiscal Agencies.

Sunset on Reduced Rate

Under the Act, the 12-cent tax rate will no longer be in effect the earlier of September 1, 2016, or the first day of the first month that is at least 90 days after the State Treasurer certifies that the total cumulative rate differential due to the differential rates from September 1, 2006, is greater than $2.5 million.

Under the bill, the 12-cent tax rate on gasoline containing at least 70% ethanol would no longer be effective the first day of the first month that was at least 90 days after the State Treasurer certified that the total cumulative rate differential from October 1, 2008, was more than $2.0 million for ethanol.

The 12-cent tax rate on diesel fuel containing at least 5% biodiesel would no longer be effective the first day of the first month that was at least 90 days after the State Treasurer certified that the cumulative rate differential for biodiesel was greater than $5.5 million.

Appropriation of Rate Differential

The Act requires the Legislature annually to appropriate to the MTF the amount determined as the rate differential certified by the State Treasurer for the 12-month period ending on May 1 of the calendar year in which the fiscal year begins. The 12-cent rate will not be in effect beginning January of any fiscal year for which the appropriation has not been made by the first day of that fiscal year.

The bill would delete those provisions.

Senate Bill 1159 (S-1)

Reduced Road Tax

Under the Motor Carrier Fuel Tax Act, a motor carrier must pay a road tax of 15 cents per gallon on motor fuel consumed in qualified commercial motor vehicles on the public roads or highways within the State, except that the tax rate for diesel fuel containing at least 5% biodiesel is 12 cents per gallon.

Under the bill, the 12-cent per gallon rate would begin on April 1, 2008.

Tax Differential Determination

The Act requires the State Treasurer, beginning September 1, 2006, to determine annually, for the 12-month period ending May 1 and for any additional times that the Treasurer may determine, the difference between the amount of motor fuel tax collected and the amount that would have been collected but for the differential rates on motor fuel under the Act and the Motor Fuel Tax Act. (September 1, 2004, is the effective date of Public Act 346 of 2006, which added the reduced rate provisions.)

Under the bill, that requirement would begin on April 1, 2009, for the 12-month period ending March 31, 2009.

The bill would require the State Treasurer to determine the rate differential for the 12-month period within 30 days after the close of the period. The State Treasurer would have to determine how much of the rate differential was attributable to the reduced tax rate on gasoline that was at least 70% ethanol and how much was attributable to the tax rate on diesel fuel containing at least 5% biodiesel under the Motor Fuel Tax Act.

The bill also would require the State Treasurer, within seven days after determining the rate differential, to give notice of it to the chairs of the Appropriations Committees of the Senate and the House of Representatives, the chairs of the Senate and House Appropriations Subcommittees on Transportation, the Director of the Department of Agriculture, and the Senate and House Fiscal Agencies.

Sunset on Reduced Rate

Under the Motor Carrier Fuel Tax Act, the 12-cent rate will no longer be in effect the earlier of September 1, 2016, or the first day of the first month that is at least 90 days after the State Treasurer certifies that the total cumulative rate differential due to the differential rates under the Act and the Motor Fuel Tax Act from September 1, 2006, is greater than $2.5 million.

Under the bill, the 12-cent tax rate on diesel fuel containing at least 5% biodiesel would no longer be effective the first day of the first month that was at least 90 days after the State

Treasurer certified that the cumulative rate differential attributable to fuel that contained at least 5% biodiesel was greater than $5.5 million.

Appropriation of Rate Differential

The Motor Carrier Fuel Tax Act requires the Legislature annually to appropriate to the MTF the amount determined as the rate differential certified by the State Treasurer for the 12-month period ending on May 1 of the calendar year in which the fiscal year begins. The 12-cent rate will not be in effect beginning January of any fiscal year for which the appropriation has not been made by the first day of that fiscal year.

The bill would remove those provisions.

MCL 207.1008 (S.B. 1158)
207.212 (S.B. 1159)

Legislative Analyst: Curtis Walker

FISCAL IMPACT

The combined fiscal impact of Senate Bills 1158 (S-1) and 1159 (S-1) would be a reduction in revenue to the Michigan Transportation Fund (MTF) over time of $5.0 million. In addition, the General Fund would retain the same amount, which could be appropriated for other purposes.

Under current law, the tax rates on ethanol and biodiesel are lower than those on gasoline and regular diesel fuel. The lower rates remain in effect for 10 years or until the total cumulative differential reaches $2.5 million, whichever is earlier. In addition, the General Fund reimburses the Michigan Transportation Fund for the amount of revenue lost due to the lower fuel tax rates. However, current law states that if the General Fund reimbursement does not take place, the rate returns to the higher level. For the 12-month period ending May 1, 2007, the lost revenue totaled approximately $776,000. There was no bill passed to appropriate the funds from the General Fund to the MTF, so no reimbursement was made. As a result, the reduced rates were in effect only until January 1, 2008.

The two bills would increase the differential cap to $2.0 million for ethanol and $5.5 million for biodiesel for a total of $7.5 million. In addition, the provisions regarding the 10-year limit and reimbursement from the General Fund would be eliminated. As a result, there would be a reduction of $5.0 million in revenue (the difference between the $7.5 million cap and the $2.5 million cap) to the MTF over an unknown number of years. Based upon current statutory MTF distribution formulae, the $7.5 million in lost revenue would result in the reductions shown in the table below.

$750,000	Comprehensive Transportation Fund (public transit programs)
$2,639,250	MDOT road programs
$2,639,250	County Road Commissions
$1,471,500	Cities and Villages

Fiscal Analyst: Debra Hollon
Stephanie Yu

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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.