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BILL ANALYSIS

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Senate Bill 5477 (Substitute S-1)
Sponsor: Representative Rob Verheulen
House Committee: Transportation and Infrastructure
Senate Committee: Infrastructure Modernization

Date Completed: 5-20-14

CONTENT

The bill would amend the Motor Fuel Tax Act to provide for excise taxes on gasoline fuel and diesel fuel that would be adjusted annually based on 1) a percentage of the respective fuel's average wholesale market price and 2) criteria establishing limits on rates and rate changes.

The bill would set the gasoline fuel tax at 19 cents per gallon and the diesel fuel tax at 15 cents a gallon through December 31, 2014. Currently, the fuel tax on gasoline is 19 cents per gallon, and the fuel tax on diesel fuel is 15 cents per gallon.

On January 1 of each year, the Department of Treasury would have to determine the rate of taxation on gasoline and diesel fuel. The Department would determine these rates by multiplying the average wholesale price by the applicable percentage, and rounding up to the nearest 1/10 of one cent. (It is important to note that the tax rate of diesel fuel would be based on the average wholesale price of gasoline, not diesel fuel.)

("Applicable percentage" would mean 6%. "Average wholesale price" would mean the statewide average wholesale price of gasoline as determined by the Department based upon a 12-month rolling average of the wholesale price. For each rate in effect for a particular year, the 12-month rolling average period would end on the last day of the month that was three months prior to the effective date of the most recently set tax rate.

"Wholesale price" would mean the price per gallon of unleaded regular gasoline charged by a licensed supplier to a purchaser at the time of removal from a terminal across the rack, as determined by the Department. The term would not include the tax imposed under the bill, prepaid State sales tax, Federal excise tax, any other Federal motor fuel tax, or an environmental protection regulatory fee pursuant to the Natural Resources and Environmental Protection Act.)

The tax rates would be subject to a rate floor, as well as limitations on annual increases. "Rate floor" would mean a cents per gallon lower limit on the tax rate by the Department imposed on motor fuel under the bill's provisions. Beginning January 1, 2015, "rate floor" would mean the tax rate in effect for the immediately preceding calendar year.

Beginning January 1, 2020, and then annually, the rate determined by the Department would have to be adjusted by multiplying the rate by one plus the lesser of the following: a) 5%; or b) the inflation rate. ("Inflation rate" would mean the percentage change between the most recent calendar year index and the index for the calendar year immediately preceding the most recent calendar year, as determined by the Department. "Index" would mean the national highway construction cost index or, if the Federal Highway Administration ceases to publish the index, the published index that most closely measures inflation in the costs of highway construction, as determined by the Department.)

The bill also would require liquefied petroleum gas (LPG) to be taxed at the same rate as discussed above beginning January 1, 2014. Currently, the tax rate on LPG is 15 cents per gallon.

The Department would have to publish notice of gasoline and diesel fuel tax rates on January 1 of each year and at least 30 days before the effective date of the new rate. The rate determination would be presumed to be correct and could be set aside only if an administrative tribunal or court found the Department's determination to be clearly erroneous.

The bill would remove provisions allowing a supplier to deduct 1.5% of the quantity of gasoline removed by the supplier to allow for the cost of remitting the tax. The amount may be credited to a wholesaler or supplier, and in some circumstances, the retailer.

The bill would take effect on January 1, 2015.

MCL 207.1002 et al Legislative Analyst: Glenn Steffens

FISCAL IMPACT

House Bill 5477 (S-1) would increase State revenue to the Michigan Transportation Fund (MTF) by approximately $25.8 million in FY 2014-15, and $35.2 million in FY 2015-16. Revenue to a recreation account would increase by $0.5 million in FY 2014-15 and $0.7 million in FY 2015-16. Depending on the magnitude of motor fuel price increases and/or motor fuel consumption, and after 2020 the rate of inflation, the revenue increases would be greater in future years.

The tax rate to be applied to diesel fuel is somewhat unclear. The bill indicates that the rate could not be below the rate floor, which is the rate in the prior year. Based on available data and given the provisions in the bill, the tax rate based on the wholesale price of unleaded regular gasoline would be approximately 16.7 cents per gallon. As a result, the rate floor would be effective for gasoline tax rates and tax rate on gasoline would remain at 19 cents per gallon. However, diesel fuel is currently taxed at 15 cents per gallon. Furthermore, the bill would levy the same tax rate against both types of fuel. The fiscal impact assumes that the tax rate on diesel will rise to 19 cents per gallon and not to 16.7 cents per gallon.

House Bill 5477 (S-1) would replace the current fixed per gallon tax on motor fuels with a new per gallon tax that would vary based on the wholesale price of motor fuel. Eliminating the current tax would reduce Michigan Transportation Fund revenue by approximately $927.6 million per year, and revenue to the Recreation Improvement Account of the Legacy Fund by approximately $18.9 million. On a full-year basis, the replacement tax would increase revenue to the MTF by approximately $961.9 million and revenue to the Recreation Improvement Account by approximately $19.6 million. The net impact would be to increase MTF revenue on a full-year basis by $34.4 million, and revenue to the Recreation Improvement Account by $0.7 million.

The fiscal impact assumes that corollary changes to those in the bill would be made to taxes assessed under the Motor Carrier Fuel Tax Act. The bill is not tie-barred to a bill that would make such changes.

Fiscal Analyst: David Zin

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