Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: H.B. 335 of the 130th G.A.

Date: December 4, 2013

Status: As Introduced

Sponsor: Rep. Butler

Local Impact Statement Procedure Required: Yes

Contents: To guarantee the repayment of loans related to fleet vehicles that run on natural gas fuel; to apply the motor fuel tax to compressed natural gas; to authorize a temporary exemption from the motor fuel tax for purchasers of propane and compressed natural gas; to require the inspection of certain natural gas vehicles; to create a weight limit exemption for compressed natural gas vehicles; and to clarify the regulatory authority of the Fire Marshal with regard to filling stations dispensing gaseous fuel

State Fiscal Highlights

STATE FUND	FY 2014	FY 2015	FUTURE YEARS
Highway Operating Fund (Fund 7002) and other state funds			
Revenues	Loss, potentially up to $0.8 million	Loss, potentially up to $0.8 million	Loss, potentially up to $0.8 million; gain beginning after five or six years
Expenditures	- 0 -	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2014 is July 1, 2013 – June 30, 2014.

- The temporary exemption for purchasers of propane from the state motor fuel tax (MFT) would reduce MFT receipts during the three years for which it is in effect, and during a phase-in period. State funds that would be affected by such revenue loss are: the Highway Operating Fund (Fund 7002, used by the Department of Transportation); the Waterways Safety Fund (Fund 7086, used by the Department of Natural Resources, or DNR); the Wildlife Boater Angler Fund (Fund 5P20, used by DNR); the Motor Fuel Tax Administrative Fund (Fund 5V70, used by the Department of Taxation); the Local Transportation Improvement Program Fund (Fund 7052); and a fund used by the Ohio Turnpike and Infrastructure Commission.
- The reduction in revenue to Fund 7052 would reduce grants to local governments through the Local Transportation Improvement Program (LTIP), which is administered by the Public Works Commission.
- Including compressed natural gas under the MFT would increase MFT revenue, potentially beginning during the phase-in period, but likelier starting when the full 28-cent tax rate is levied six years after enactment.

- Currently, about 35% of MFT revenue is distributed to local governments, i.e., counties, municipalities, and townships.[1]
- The bill establishes a fee of $50 to be paid by the owner of an alternative fuel vehicle to the State Highway Patrol, and deposited to the credit of Fund 7036, to offset the costs of conducting the inspections required by the bill.
- The bill creates the Green Fleets Loan Guarantee Program within the Development Services Agency (DSA). DSA would incur costs for contracting with the financial institutions that are to issue the credit cards under the program, approve the loans to guarantee, and publish the monthly average regional gasoline and diesel fuel prices required under the bill.
- The bill creates a new custodial fund, the Green Fleets Loan Guarantee Fund, to secure the loans that lending institutions make to fleet operators under the program. The major source of revenue for this new fund would be cash transfers from the existing Loan Guarantee Fund that is used by the state to secure loans made for various economic development purposes.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2014	FY 2015	FUTURE YEARS
Counties, municipalities, and townships			
Revenues	Loss, potentially up to $0.4 million	Loss, potentially up to $0.4 million	Loss, potentially up to $0.4 million; gain beginning after five or six years
Expenditures	- 0 -	- 0 -	- 0 -

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- The bill would reduce tax receipts from the state motor fuel tax (MFT) due to the temporary exemption for purchasers of propane. Currently, about 35% of MFT revenue is distributed to local governments, i.e., counties, municipalities, and townships.
- The bill would also reduce grants to local governments through the Local Transportation Improvement Program (LTIP), which is administered by the Public Works Commission.
- Including compressed natural gas under the MFT would increase MFT revenue, potentially beginning during the phase-in period, but likelier starting when the full 28-cent tax rate is levied six years after enactment.

[1] Based on the FY 2012 MFT distribution, about 65% of MFT revenue was distributed to various state agencies and the remaining 35% was distributed to counties, municipalities, and townships. Source: Ohio Department of Transportation.

Detailed Fiscal Analysis

Green Fleets Loan Guarantee Program

The bill creates the Green Fleets Loan Guarantee Program within the Development Services Agency (DSA). The program would enable private or public sector fleet operators to obtain loans to convert their fleets from gasoline or diesel fuel to natural gas. The loans would be made by financial institutions, but would be guaranteed by the state. DSA's responsibilities in administering the program are described in more detail below.

Approval of program loans to guarantee

Under the bill, DSA is required to guarantee loans that are economically sound and that can be reasonably estimated to be paid off after five years through the fuel savings derived through the conversion of fleets from gasoline and diesel to natural gas. Many factors will affect savings accrued over five years, most notably the fluctuations in the prices of gasoline, diesel, and natural gas in different regions of Ohio. The state loan guarantee applies when (1) the loan recipient has complied with the loan terms and (2) the amount the loan recipient paid in accordance with the bill's loan payment terms when refueling its converted fleet vehicles was not enough to repay the loan plus interest within ten years. In this case, the state would use amounts available in the Green Fleets Loan Guarantee Fund to pay off the remainder of the loan.

The loans are to be paid off by the loan recipients using the savings derived by converting their fleets from gasoline or diesel fuel to natural gas. The process established under the program is outlined in the following five steps:

1. DSA contracts with a credit card issuer[2] to issue credit cards to recipients of a loan guaranteed under the program for use at fueling stations when purchasing natural gas fuel for the converted fleet vehicles that were funded by the loan. A loan recipient is to be given one credit card for each such vehicle.
2. The loan recipients pay for natural gas refueling expenses using the credit cards.
3. The credit card issuer bills the loan recipient monthly an amount equal to the cost of refueling each vehicle in the fleet as if the previous fuel type had been used to fuel the vehicle with natural gas. This would be calculated by using the monthly certified prices of gasoline and diesel published on the DSA website.

[2] LSC assumes that DSA would contract with only one financial institution to issue credit cards under the program. Due to program complexity, it is unlikely that DSA would contract with two or more financial institutions to issue credit cards under the program.

4. The credit card issuer then remits to DSA the difference between (1) the amount paid by the loan recipient to the credit card issuer, and (2) the amount that was paid by the credit card issuer to the refueling station for the natural gas.
5. DSA records the above amount and transfers that same amount to the lending institution that made the loan.
6. When the amounts transferred to the lending institution by DSA are enough to repay the loan plus interest, DSA cancels the credit cards issued to the loan recipient.

Loan guarantees

The bill creates the Green Fleets Loan Guarantee Fund to secure the loans that lending institutions make to fleet operators under the program. The fund is to consist of all grants, gifts, and contributions of money lawfully designated for or deposited into the fund and all money lawfully appropriated and transferred to it. Specifically, the bill authorizes the Director of Development Services to request that the Treasurer of State transfer cash from the existing Loan Guarantee Fund that is used by the state to guarantee loans related to various state economic development initiatives. At the end of FY 2013, the balance available in the Loan Guarantee Fund was $874,000. The Loan Guarantee Fund itself consists of transfers from the Facilities Establishment Fund, among other sources of revenue. The Facilities Establishment Fund (Fund 7037) is used for loans to businesses to cover capital assets involved with business relocation or expansion projects and consists of economic development bond proceeds, investment interest, loan repayments, and loan fees.

DSA oversight costs

DSA would likely incur costs for overseeing the Green Fleets Loan Guarantee Program. Presumably, DSA would adopt rules and program guidelines, including fees payable by loan recipients, financial institutions, credit card issuers, or all of these entities to cover the agency's administrative costs. Specifically, DSA would incur costs for contracting with the financial institution that is to issue the refueling credit cards under the program, approve the loans to guarantee, and publish the monthly average regional gasoline and diesel fuel prices required under the bill.

Inspection and registration requirements for specified alternative fuel motor vehicles

The bill requires the Superintendent of the State Highway Patrol, in consultation with the Registrar of Motor Vehicles, to adopt rules governing the inspection of any motor vehicle for which an Ohio registration is sought that is capable of operating on certain specified alternative fuels. The rules are required to include procedures for vehicle inspection, establish a time frame for an initial vehicle inspection, require subsequent vehicle inspections every three years, and establish any other procedures determined by the Superintendent to be necessary for the administration of the inspection program.

To offset the costs incurred as a result of these provisions, the bill establishes an inspection fee of $50 to be deposited to the credit of the State Highway Safety Fund (Fund 7036). The amount of revenue gained by Fund 7036 as well as the total cost of the inspections is dependent on the number of inspections that are conducted annually. According to information from the U.S. Energy Information Administration, in 2011 there were fewer than 265,000 vehicles across the country that used the types of fuel that are referenced in the bill. This likely means that very few inspections will be necessary and the fiscal impact will be minimal.

State Fire Marshal's authority related to filling stations

The bill appears to clarify the law regarding the authority of the State Fire Marshall (SFM) within the Department of Commerce to inspect natural gas refueling stations. This change does not appear to have any direct fiscal effect since, presumably, the State Fire Marshal is already performing these responsibilities.

Tax provisions

The bill expands the definition of motor fuel, to include compressed natural gas (CNG), for the purpose of the state motor fuel tax (MFT), thereby subjecting CNG to the MFT. Under the bill, the MFT on CNG would be measured according to gallon equivalents, though the bill does not specify a standard to be used to determine a gallon equivalent of CNG. The change in definition also has the effect of shifting the gross receipts from the sale of CNG from the commercial activity tax (CAT) to the recently enacted motor fuel receipts tax (MFRT) when it begins operation July 1, 2014.

The bill authorizes a temporary exemption from the MFT for purchasers of propane and phases in the rate for CNG. In the first three years after the first month after the effective date of the bill, no MFT would be imposed on propane and CNG used to fuel vehicles on public roads in Ohio. The MFT rates would be 9.3 cents-per-gallon and 18.6 cents-per-gallon in the fourth year and the fifth year, respectively. After the fifth year, the full 28 cents-per-gallon MFT rate would be imposed on both propane and CNG. The bill specifies that MFT receipts associated with CNG and propane are to be credited and distributed in the same proportion and manner as existing MFT distributions.

Currently, the state levies a total of 28 cents in MFT on each gallon of motor fuel used, distributed, or sold within the state and used to operate motor vehicles on public highways in the state.[3] The MFT is paid by wholesalers, distributors, and refiners who distribute fuel in Ohio. The MFT consists of five separate levies with each of the levies distributed based on (its own separate) statutory formula. Generally, before any other

[3] Currently, school districts, educational service centers, or a county board of developmental disabilities may apply for a refund of 6 cents per gallon of motor fuel purchased for their operations.

distributions are made, the first 2% of MFT receipts must be distributed to the Highway Operating Fund (Fund 7002), in the Department of Transportation's budget. Then, MFT receipts are distributed to the following state agencies: Department of Natural Resources (0.875% to the Waterways Safety Fund, Fund 7086) and 0.125% to the Wildlife Boater Angler Fund, Fund 5P20); Department of Taxation (0.275% to the Motor Fuel Tax Administrative Fund, Fund 5V70); $100,000 to the Public Utilities Commission of Ohio (the Grade Crossing Protection Fund, Fund 4A30); a sufficient amount to meet all debt service payments for highway bonds are transferred to Fund 7002;[4] and five cents for each gallon sold at stations operated by the Ohio Turnpike and Infrastructure Commission is transferred to the Commission. The remainder of MFT revenue is distributed to Fund 7002 and local governments (counties, municipalities, and townships). In addition, the equivalent of one cent of the total 28-cent tax rate of MFT revenue, about $64 million, is distributed to local governments through grants under the Local Transportation Improvement Program (LTIP), which is administered by the Public Works Commission.

The bill would reduce tax receipts from MFT due to its temporary exemption for purchasers of propane. Based on renewable and alternative fuels data from the U.S. Energy Information Administration (EIA), approximately 4.1 million gasoline-equivalent gallons of liquefied petroleum gas (propane) were consumed in Ohio in 2011. Using the MFT rate of 28 cents-per-gallon and the amount of propane consumed above, the estimated revenue loss during the temporary exemption would be up to $1.2 million per year. Currently, about 65% of MFT revenue is distributed to various state agencies and the remaining 35% is distributed to counties, municipalities, and townships. Thus, the estimated initial annual revenue loss to the state and local governments would be up to $0.8 million and $0.4 million, respectively, with the state's share borne by various state funds as explained above. Counties, municipalities, and townships would also lose revenue in proportion to their allocations of motor fuel tax receipts. After the temporary tax exemption expires, the taxation of CNG as a motor fuel would begin to increase MFT revenue. During the fourth and fifth year, when the full rate is being phased in, the new revenue would likely offset a portion of the revenue loss, rather than cause an increase in revenue. In the sixth year and subsequent years, when the full 28 cents of the tax applies, there would be a gain in MFT revenue.

The shift of taxation of gross receipts from the sale of CNG from the CAT to the motor fuel receipts tax may increase MFRT revenue, but decrease CAT revenue. MFRT was created by H.B. 59 (the biennial budget operating act) to replace the CAT as applied to the sale or exchange of motor fuel. MFRT revenue arising from the sale of motor fuel used on public highways is to be used for public highway purposes, generally from amounts transferred to the Motor Fuel Receipts Tax Public Highways Fund (Fund 5NZ0).

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[4] Cash from Fund 7002 is transferred to the Highway Capital Improvement Fund (Fund 7042), which is in the Commissioners of the Sinking Fund's budget, to pay for debt service on the highway bonds.

Also, the shift of taxation of gross receipts from the sale of CNG from the CAT to the MFRT may increase or decrease total state tax receipts. The CAT tax rate is 0.26% of taxable gross receipts (that exceed $1 million), and the tax will apply at all sales transactions within the supply chain. The MFRT tax rate is 0.65% and the tax is applied only once on the basis of gross receipts received by a "supplier."[5] Whether revenue increases or decreases would depend on the number of participants in the supply chain or point at which CNG is taxed. That may differ from firm to firm, depending on the degree of vertical integration of the firm; it would also depend on the market shares of the different firms, to the extent that their degrees of vertical integration differ. Under continuing law, the GRF receives 50% of CAT revenue; the School District Tangible Property Tax Replacement Fund (Fund 7047) and the Local Government Tangible Property Tax Replacement Fund (Fund 7081) receive 35% and 15% of CAT revenue, respectively. CAT receipts that are deposited into these two local government funds are used to reimburse school districts and other units of local government for lost revenues from the phase-out and reductions in tangible personal property taxes on general business. Current law also requires a GRF subsidy if distributions to the funds are insufficient for the required reimbursements.

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[5] A person that acquires motor fuel from a terminal or refinery "rack" and distributes that fuel within the state or imports motor fuel for sale or distribution by the person within the state.