

Legislative Analysis



MBT CREDIT FOR E85 & BIODIESEL PUMPS

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Senate Bill 1196 (Substitute H-2)

Sponsor: Sen. Jud Gilbert, II

Committee: Agriculture

Complete to 12-1-08

A SUMMARY OF SENATE BILL 1196 AS REPORTED FROM HOUSE COMMITTEE

The bill would provide a nonrefundable Michigan Business Tax (MBT) credit to a service station owner that installs a new fuel delivery system or converts an existing one to deliver either (1) E85 fuel (fuel containing 70 to 85 percent ethanol) or (2) biodiesel blended onsite using technologies developed after bill takes effect. The bill does not define the term "fuel delivery system," but we understand the term to mean such things as fuel pumps, storage tanks, and related equipment.

[Note: As introduced, this bill and House Bill 5878, sponsored by Representative Joel Sheltroun, were identical.]

30 percent credit up to \$20,000. A service station owner could get a tax credit equal to 30 percent of eligible costs, not to exceed \$20,000. In the 2008 tax year only, the credit would cover 30 percent of eligible costs incurred in the 2008 tax year as well as the two preceding tax years (2006 and 2007). In future tax years, the credit would only apply to eligible costs incurred during that particular tax year. [Note: It appears that only E85 project costs from the 2006 and 2007 tax years would qualify for the credit because biodiesel costs do not qualify for the credit unless the new or converted biodiesel system uses onsite blending and technologies developed after the bill takes effect. By definition, those technologies did not exist in 2006 or 2007.]

Excluded costs. In calculating the credit, a taxpayer could not include costs for which the taxpayer received a grant under the Service Station Matching Grant Program created under Section 78 of the Michigan Strategic Fund Act. (For a 2008 tax year credit, costs for which were grants received during the 2006 and 2007 tax years would also be excluded.)

[Note: Under MCL 125.2078, a Service Station Matching Grant is available for up to 75 percent of a conversion project's costs (up to \$3,000 per facility), or up to 50 percent of a new construction project's costs (up to \$12,000 per facility for an E85 project or \$4,000 per facility for a biofuel project). However, according to the Senate Fiscal Agency's analysis of Senate Bill 1196, dated 5-27-08, this matching grant program was discontinued in 2007. A separate state grant program run by the Department of Labor and Economic Growth using \$110,000 in federal funds, offered grants of up to \$5,000 to service stations that converted existing equipment to sell E85 fuel by September 30, 2008. In addition, the federal government currently provides an income tax credit for

costs incurred by service stations to be able to sell E85 or biodiesel fuels that is generally equal to 30 percent of incurred costs up to a maximum credit of \$30,000 per location for 2006 through 2009 tax years. Only costs covered by a matching grant under MCL 125.2078 would be excluded from the MBT tax credits under the bill.]

\$1 million cap on total credits allowed. A total of no more than \$1 million in credits would be allowed per calendar year, but the bill does not specify how the \$1 million would be allocated among taxpayers claiming the credit if the total credits claimed in a given year exceed \$1 million.

Credit not refundable. Unlike the bill as introduced, if the credit exceeded the taxpayer's liability for the tax year, the excess would not be refunded.

Michigan Strategic Fund certificate. When claiming the credit, the taxpayer would have to attach a certificate from the Michigan Strategic Fund to the tax return that includes:

- A statement that the taxpayer owns a service station that created or converted a fuel delivery system (or both) to provide E85 or biodiesel blended onsite using future technologies during the tax year for which the credit is sought.
- A statement of the costs incurred by the taxpayer during the designated tax year that count toward the credit and the amount of any grant awarded that same year based on the same costs.
- The taxpayer's federal Employer Identification Number (EIN) or Michigan Department of Treasury number.

Tax consequences if system is used for less than three years. A service station that stops using the new or converted system within three years of receiving the MBT credit could have the credit reduced or terminated (or have a percentage of a previously-claimed credit added back to its tax liability), as determined by the Michigan Strategic Fund.

FISCAL IMPACT:

This bill would reduce MBT revenue by not more than \$1 million on an annual basis. The fiscal impact would be limited to General Fund/General Purpose revenue. This bill would have no direct effect on local units of government.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.