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BILL ANALYSIS

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Senate Bill 930 (as reported without amendment)
Sponsor: Senator Roger Kahn, M.D.
Committee: Finance

CONTENT

The bill would amend the Tobacco Products Tax Act to do the following:

-- Require the Department of Treasury to issue a request for proposals to acquire and use digital stamps on packs of cigarettes.
-- Allow stamping agents to retain 0.5% of the tax due on cigarettes as compensation for equipment and technology upgrades necessitated by digital stamps.
-- Allow stamping agents to retain from monthly tax remittances, for 18 months, 5.55% of the purchase price of equipment necessary to affix digital stamps.
-- Allow licensees to retain a percentage of the tax otherwise due on sales of untaxed cigarettes to Indian tribes.
-- Include as a "manufacturer" a person who operates or permits any other person to operate a commercial-grade cigarette making machine in Michigan for the purpose of producing, filling, rolling, dispensing, or otherwise generating cigarettes.
-- Require the Michigan Department of State Police (MSP) to initiate inquiries or otherwise obtain data from the Treasury Department in order to support its enforcement activities.
-- Allow the MSP to use electronic resources to perform criminal background checks on license applicants and current licensees, and require the MSP to inform the Treasury Department of the results.
-- Allow the Department to consider the criminal history as a good cause to suspend, revoke, or refuse to issue or renew a license.

In addition, for fiscal year 2011-12 only, the bill would require the Department of Treasury, the MSP, and the Attorney General to use, for enforcement and administration of the Act, $6.0 million of tobacco tax revenue before it was distributed to the General Fund.

MCL 205.422 et al. Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The digital cigarette tax stamps that the bill would require are estimated to cost more than the current heat-applied stamps. The current stamp contract (which expires during FY 2012-13) provides for the State to purchase stamps at 87 cents per 1,000 stamps. Digital stamps, depending on the features of the stamps and the details of the contract, could cost between $5 and $8 per 1,000 stamps, according to the Department of Treasury. Currently the State's cost of cigarette tax stamps is about $450,000 per year. With digital stamps, the cost would be in the range of $2.6 million to $4.1 million per year, assuming the number of stamps purchased remained the same. The Department would incur additional costs to issue the request for proposals to acquire and use digital stamps by March 1, 2012, and for information technology improvements to gain access to and use the increased data on the movement and sale of cigarettes, which would be useful in enforcing the cigarette tax. The amount of additional revenue from the improved tax enforcement is unknown.

Under the bill, the State would reimburse stamping agents for the costs of digital stamping equipment and related technology upgrades. The total reimbursement costs are estimated to be between $3.0 million and $6.0 million depending on the technology adopted and the final costs involved. Stamping agents would be authorized to increase their allowable deductions from the cigarette tax revenue remitted to the State. Machine purchases would be reimbursed over 18 months, and the cost of other technology and equipment upgrades would be reimbursed through deductions of 0.5% of tax revenue collected, which the stamping agents would retain until those costs had been fully reimbursed. Licensees also would be authorized to retain an administrative fee on untaxed cigarettes sold to Indian reservations. The Department estimates that this change would reduce State revenue by approximately $60,000 per year.

The bill would reduce potential losses in State cigarette tax revenue by specifying that operators of cigarette making machines would be considered manufacturers, making them subject to the licensing requirements and regulations that apply to other cigarette manufacturers. This is expected to reduce the sale of untaxed cigarettes and increase cigarette tax revenue by an unknown amount.

Overall, these changes would have an indeterminate effect on State cigarette tax revenue. The change to digital stamps would increase the State's costs and also the State's tax enforcement capabilities, which would increase revenue over the current estimates. The amount of this effect is unknown, however, and would likely only partially offset the long-term trend of declining tobacco tax revenue. Table 1 shows tobacco tax revenue for both cigarette and other tobacco products taxes.

Table 1

Tobacco Tax Revenue		
Fiscal Year	**Tobacco Tax Revenue[1] (in millions)**	**Percent Change from Prior Year**
FY 2006-07	$1,129.2	(3.4)%
FY 2007-08	1,073.7	(3.9)
FY 2008-09	1,041.5	(3.0)
FY 2009-10	1,006.5	(3.4)
FY 2010-11 Preliminary	968.2	(3.8)
FY 2011-12 Estimated	941.7	(2.7)
FY 2012-13 Estimated	918.6	(2.5)

[1] Cigarette and other tobacco products tax.

Source: January 2012 Consensus Revenue Estimates

The State revenue from tobacco taxes is distributed among several funds including the General Fund and the School Aid Fund according to allocations specified in the Tobacco Products Tax Act (MCL 205.432). The funds receiving revenue from the cigarette tax and the other tobacco products tax are shown in Table 2. Revenue changes would affect all of these funds.

Table 2

Statutory Allocation of Tobacco Tax Revenue Pursuant to MCL 205.432		
	Allocation of Cigarette Tax Revenue[1)]	**Allocation of Other Tobacco Products Tax Revenue**
General Fund	19.8%	25%
School Aid Fund	41.6	--
Health and Safety Fund	2.4	--
Healthy Michigan Fund	3.8	--
Medicaid Benefits Trust Fund	31.9	75
Wayne County Indigent Health Care	0.6	--

[1)] Rounded to the nearest one-tenth of one percent.

Source: Senate Fiscal Agency

The bill would authorize the use of the existing appropriations of tobacco tax revenue for enforcement and administration of the Tobacco Products Tax Act by directing the use of $6.0 million in FY 2011-12 from the General Fund portion of tobacco products tax revenue by the Department of Treasury, the Attorney General, and the Department of State Police. The funds would be used for enforcement and administration of the Act. The bill does not specify how the $6.0 million would be allocated among the three departments and thus would have an indeterminate impact on the funding of these departments. Public Act 63 of 2011 included the budgets for these departments in FY 2011-12. That Act provided an increase of $6.0 million from tobacco tax revenue for tobacco tax enforcement. This consisted of $3.0 million appropriated to the Department of State Police, contingent on the availability of the funds, and $3.0 million appropriated to the Department of Treasury. The Governor in his signing message stated that the boilerplate language that directed the spending for the Treasury appropriation was unenforceable; however, the line item was not vetoed. Thus, the bill would not make a new appropriation, but would authorize the use of existing appropriations in FY 2011-12.

The bill also would permit the State Police to engage in name background checks on licensees under the Tobacco Products Tax Act, and would require the MSP to provide the results of the name checks to the Department of Treasury, a service whose costs would be covered within existing budget resources for the MSP.

Date Completed: 2-8-12

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