



**Senate Fiscal Agency**  
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**BILL ANALYSIS**

**Telephone: (517) 373-5383**  
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Senate Bill 418 (Substitute S-1)  
Senate Bill 425 (Substitute S-1)  
Senate Bill 426 (Substitute S-1)  
Senate Bill 612 (as introduced 11-10-15)  
Senate Bill 613 (Substitute S-1)  
Senate Bill 614 (Substitute S-1)  
Sponsor: Senator Wayne Schmidt (S.B. 418, 425, 426, 612, & 614)  
          Senator Geoff Hansen (S.B. 613)  
Committee: Commerce

Date Completed: 12-2-15

**CONTENT**

**The bills would amend various statutes to earmark a portion of sales tax revenue from the retail sale of aviation fuel, and a portion of use tax revenue from the use, storage, and consumption of aviation fuel, to the State Aeronautics Fund and a proposed "Qualified Airport Fund"; require money in the Qualified Airport Fund to be distributed to a qualified airport or qualified airports; and require the operator of a qualified airport to use the funds for purposes related to capital improvements to landing areas.**

**Senate Bill 418 (S-1) would amend the Aeronautics Code to make wording changes related to the refund of the tax on aviation fuel.**

**Senate Bill 426 (S-1) would amend the Aeronautics Code to do the following:**

- **Require the portion of sales and use taxes that would have to be deposited into the State Aeronautics Fund to be paid into the State Treasury and credited to the Fund.**
- **Create the Qualified Airport Fund and require the sales and use tax required to be deposited into the Fund to be paid to the State Treasury and credited to the Fund.**

**Senate Bill 425 (S-1) would amend the Aeronautics Code to:**

- **Require all money in and credited to the State Aeronautics Fund to be appropriated for carrying out the provisions of Code, except as otherwise specified by the bill.**
- **Require the State Treasurer to disburse from the Qualified Airport Fund to the operator of a qualified airport an amount equal to the amount deposited into the Fund.**
- **Require an operator of a qualified airport to use money disbursed from the Fund for deposit in a bond and interest redemption account to pay for revenue bonds issued to finance, or to otherwise defray costs of, capital improvements to landing areas at the qualified airport; and to defray those costs.**

**Senate Bill 612** would amend the Aeronautics Code to include in the section that defines terms used in the Code an existing definition of "qualified airport" (an airport, other than a military airport, that has 10.0 million or more enplanements in any 12-month period).

**Senate Bill 613 (S-1)** would amend the General Sales Tax Act to do the following:

- Beginning October 1, 2016, and then quarterly, require an amount equal to the collections of the 2% sales tax from the retail sale of aviation fuel to be distributed to the State Aeronautics Fund and the Qualified Airport Fund, as described by the bill.
- Require the Department of Treasury, on an annual basis, to reconcile the amounts distributed during each fiscal year, and provide an annual reconciliation report to the operator of each qualified airport.
- Beginning April 1, 2016, require each taxpayer making retail sales of aviation fuel to file a quarterly report with the Department.
- Prescribe penalties for failure or refusal to file the report within the time and in the manner specified.

**Senate Bill 614 (S-1)** would amend the Use Tax Act to do the following:

- Beginning October 1, 2016, and then quarterly, require an amount equal to the collections of the 2% use tax from the use, storage, or consumption of aviation fuel to be distributed to the State Aeronautics Fund and the Qualified Airport Fund, as described by the bill.
- Require the Department of Treasury, on an annual basis, to reconcile the amounts distributed during each fiscal year, and provide an annual reconciliation report to the operator of each qualified airport.
- Beginning April 1, 2016, require each person storing, using, or consuming aviation fuel, and each seller collecting the tax from the purchaser from sales of aviation fuel, to file a quarterly report with the Department.
- Prescribe penalties for failure or refusal to file the report as specified.

All of the bills are tie-barred to each other and would take effect 90 days after their enactment. A more detailed description of the bills, except Senate Bill 612, follows.

#### **Senate Bill 418 (S-1)**

Section 203(1) of the Aeronautics Code imposes a privilege tax at the rate of 3 cents per gallon on all fuel sold or used in producing or generating power for propelling aircraft using the aeronautical facilities on the land and water of the State. The Code requires a refund of 1.5 cents per gallon to be made to airline operators who show proof within six months after purchase that they are operating interstate on scheduled operations. The bill would require this refund "[f]or the tax imposed under this subsection".

#### **Senate Bill 426 (S-1)**

The Aeronautics Code establishes the State Aeronautics Fund and requires all money received from aviation fuel taxes, licensing of schools of aviation, airports, landing fields, airport managers, registration of aircraft and airmen, and from the operation of State-operated airports, landing fields, and other aeronautical facilities to be paid into the State Treasury and credited to the Fund. The bill would require the portion of sales and use taxes to be deposited into the Fund under Section 25 of the General Sales Tax Act and Section 21 of the Use Tax Act to be paid to the State Treasury and credited to the Fund. (Those sections would be amended by Senate Bills 613 (S-1) and 614 (S-1), respectively).

The bill also would create the Qualified Airport Fund. All money to be deposited into the Qualified Airport Fund under Section 25 of the General Sales Tax Act and Section 21 of the Use Tax Act would have to be paid into the State Treasury and credited to the Fund.

### **Senate Bill 425 (S-1)**

Under the Aeronautics Code, all money in and credited to the State Aeronautics Fund is appropriated for carrying out the purposes of the Code, and meeting the expenses of the Department of Transportation. Under the bill, this would apply except as provided below.

All money in and credited to the Qualified Airport Fund would be appropriated for carrying out the purposes described in the bill. On a quarterly basis, the State Treasurer would have to disburse from the Fund to the operator of a qualified airport an amount equal to the amount deposited into the Fund. If there were more than one qualified airport, the State Treasurer would have to disburse the amount deposited into the Fund to each operator in the same proportion as the amount of taxable gallons of fuel sold at the qualified airport during the preceding fiscal year bore to the total amount of taxable gallons of fuel sold at all qualified airports during the preceding fiscal year.

An operator of a qualified airport would have to use money disbursed to it in the following order of priority: a) for deposit in a bond and interest redemption account created by ordinance of the qualified airport solely to pay the next scheduled payments for revenue bonds issued by the operator of the qualified airport pursuant to an ordinance under the Revenue Bond Act to refinance capital improvements to landing areas at the qualified airport; and b) to defray the cost of capital improvements to landing areas of the airport. The capital improvements to landing areas could include runway and taxiway design, construction, repair, or rehabilitation, lighting, drainage systems, land acquisition, airfield roadways, noise mitigation systems, deicing pads, and surveillance systems at the qualified airport.

### **Senate Bill 613 (S-1)**

#### **Distribution of Sales Tax Collected on Retail Sales of Aviation Fuel**

The General Sales Tax Act requires all money received and collected under the Act to be deposited in the State Treasury to the credit of the General Fund, except as otherwise provided.

Under the bill, beginning October 1, 2016, and the first day of each calendar quarter thereafter, an amount equal to the collections for the calendar quarter that was two calendar quarters immediately before the current calendar quarter of the tax imposed under the Act at the additional rate of 2% approved by the electors on March 15, 1994, from the retail sale of aviation fuel would have to be distributed as follows: a) an amount equal to 35% of those collections would have to be deposited in the State Aeronautics Fund and would have to be spent, on appropriation, only for the purposes authorized under the Aeronautics Code, and b) an amount equal to 65% of those collections would have to be deposited in the Qualified Airport Fund and would have to be spent, on appropriation, only for those purposes authorized under Section 35(2) of the Code (as provided by Senate Bill 425 (S-1)).

Annually, the Department of Treasury would have to reconcile the amounts distributed under the bill during each fiscal year with the amounts actually collected for a particular fiscal year and would have to make any necessary adjustments, positive or negative, to the amounts to be distributed for the next successive calendar quarter beginning January 1. The State Treasurer or his or her designee would have to provide an annual report of the reconciliation to the operator of each qualified airport. The reconciliation report would be subject to the confidentiality restrictions and penalties provided in Section 28(1)(f) of the revenue Act. (That Act establishes the revenue collection duties of the Department. Section 28(1)(f) generally

prohibits a current or former employee or authorized representative of the Department, or anyone connected with the Department, from divulging facts or information obtained in connection with the administration of a tax.)

"Qualified airport" would mean that term as defined in the Aeronautics Code.

#### Informational Report & Penalties

Beginning April 1, 2016, and each calendar quarter thereafter, the bill would require each taxpayer making retail sales of aviation fuel to file an informational report with the Department by the last day of the month immediately following the end of the calendar quarter. The report would have to be filed on a form prescribed by the Department and would have to show all of the following for the immediately preceding calendar:

- The entire amount of the taxpayer's taxable retail sales of aviation fuel.
- The gross proceeds of the taxpayer's business from taxable retail sales of aviation fuel.
- The amount of tax for which the person was liable from retail sales of aviation fuel.
- The number of taxable gallons of aviation fuel sold by the taxpayer at each airport and the gross proceeds from the sales of those gallons of aviation fuel.
- Any other information the Department considered necessary for the proper administration of the Act.

("Aviation fuel" would mean fuel as that term is defined in Section 4 of the Aeronautics Code: any gasoline, distillate, benzine, naphtha, benzol, or other volatile and inflammable liquid produced, compounded, and used for propelling aircraft.)

The report could not include any remittance for tax and would not constitute a return or otherwise alleviate the taxpayer's obligations under Section 6 of the Act. (Section 6 requires each taxpayer to file a monthly sales tax return and to transmit the return with a remittance for the amount of the tax due to the Department.)

A taxpayer required to file the informational report that failed or refused to do so within the time and in the manner specified by the bill would be liable for a penalty of \$10 per day for each day for each separate failure or refusal up to, but not exceeding, a maximum penalty of \$500 for each separate violation. The Department could waive the penalty if the taxpayer demonstrated to the Department's satisfaction that the failure to file was due to reasonable cause.

### **Senate Bill 614 (S-1)**

#### Distribution of Use Tax Collected on Aviation Fuel

Under the Use Tax Act, except as otherwise provided, all money received and collected under the Act must be deposited in the State Treasury to the credit of the General Fund, to be disbursed only by appropriations by the Legislature.

Under the bill, beginning October 1, 2016, and the first day of each calendar quarter thereafter, from the money received and collected under the Act for the State share, an amount equal to the collections for the calendar quarter that was two calendar quarters immediately before the current calendar quarter of the tax imposed under this Act at the additional rate of 2% approved by the electors on March 15, 1994, from the use, storage, or consumption of aviation fuel would have to be disbursed in the same manner as specified by Senate Bill 613 (S-1).

The Department of Treasury, on an annual basis, would have to reconcile the amounts distributed under Senate Bill 614 (S-1) during each fiscal year, and would have to provide an

annual reconciliation report, as described in Senate Bill 613 (S-1). The reconciliation report would be subject to the confidentiality restrictions and penalties provided in Section 28(1)(f) of the revenue Act.

"Qualified airport" would mean that term as defined in the Aeronautics Code.

#### Informational Report & Penalties

Beginning April 1, 2016, and each calendar quarter thereafter, every person storing, using, or consuming aviation fuel subject to the tax imposed by the Act when the tax was not paid to a seller, and every seller collecting the tax from the purchaser from sales of aviation fuel, would have to file an informational report with the Department of Treasury on a form prescribed by it on or before the last day of the month immediately following the end of a calendar quarter. The report would have to show all of the following for the immediately preceding calendar quarter:

- The entire amount of taxable aviation fuel sold or purchased by the person, as applicable.
- The amount of tax for which the person was liable from the purchase or sale of aviation fuel.
- The number of taxable gallons of aviation fuel sold or purchased by the person, as applicable, at each airport and the gross proceeds from the sales or purchase of those gallons of aviation fuel, as applicable.
- Any other information the Department considered necessary for the proper administration of the Act.

("Aviation fuel" would mean fuel as that term is defined in the Aeronautics Code.)

The report could not include any remittance for tax and would not constitute a return or otherwise alleviate the person's obligations under Section 6 of the Act. (Section 6 requires every person storing, using, or consuming tangible personal property or services subject to the use tax to file a return with the Department and to pay the amount of tax imposed.)

A person required to file the informational report that failed or refused to do so within the time and in the manner specified by the bill would be liable for a penalty of \$10 per day for each day for each separate failure or refusal up to, but not exceeding, a maximum penalty of \$500 for each separate violation. The Department could waive the penalty if the taxpayer demonstrated to the Department's satisfaction that the failure to file was due to reasonable cause.

MCL 259.203 (S.B. 418)  
259.35 (S.B. 425)  
259.34 (S.B. 426)  
259.7 (S.B. 612)  
205.75 et al. (S.B. 613)  
205.111 et al. (S.B. 614)

Legislative Analyst: Jeff Mann

#### **FISCAL IMPACT**

#### **Senate Bill 418 (S-1)**

The bill would have no fiscal impact on State or local government.

### **Senate Bills 425 (S-1) and 426 (S-1)**

The bills would have no fiscal impact absent Senate Bills 613 (S-1) and 614 (S-1), to which the bills are tie-barred. Senate Bills 613 (S-1) and 614 (S-1) would earmark sales and use tax revenue to the Qualified Airport Fund. Senate Bill 426 (S-1) would create that Fund, and expand the revenue sources from which the Aeronautics Fund may receive revenue to include revenue earmarked by Senate Bills 613 (S-1) and 614 (S-1). Senate Bill 425 (S-1) would place restrictions on expenditures associated with appropriations from the Qualified Airport Fund.

### **Senate Bill 612**

The bill would have no fiscal impact on State or local government.

### **Senate Bills 613 (S-1) and 614 (S-1)**

The bills would reduce General Fund revenue by between \$11.8 million and \$19.7 million per year based on current prices for jet fuel and aviation gasoline. To the extent that prices are above current averages, the revenue loss would increase.

Based on current prices, the revenue would be redirected from the General Fund to two aviation-related funds. The bills would increase revenue to the State Aeronautics Fund by approximately \$4.1 million to \$6.9 million per year, and would provide revenue to the Qualified Airport Fund by approximately \$7.7 million to \$12.8 million per year.

Fiscal Analyst: David Zin