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House Bill 4443 (as passed by the House)
House Bill 4444 (Substitute H-1 as passed by the House)
Sponsor: Representative Jim Lilly (H.B. 4443)
Representative Kevin Hertel (H.B. 4444)
House Committee: Regulatory Reform
Senate Committee: Regulatory Reform

Date Completed: 5-25-21

CONTENT

House Bill 4443 would amend Parts 1 and 2 of the Income Tax Act to provide credits against the individual or corporate income tax, respectively, for distributors who originated bottle deposits.

House Bill 4444 (H-1) would amend the beverage container deposit law to modify the distribution of money from the Bottle Deposit Fund for 2020, 2021, and 2022 if the amount paid by underredeemers for a calendar year exceeded \$50 million.

House Bill 4443 would apply retroactively to tax years that begin on and after January 1, 2020. House Bill 4444 (H-1) would take effect 90 days after its enactment.

House Bill 4443

Generally, the Income Tax Act levies the State income tax on net income or certain commercial, business, and financial activities. Part 1 of the Act governs the individual income tax and Part 2 of the Act governs the corporate income tax. The bill would add the following language to Part 1 and Part 2 of the Act.

For tax years that begin on and after January 1, 2020, the bill would allow a taxpayer that is a distributor who originated a deposit on a beverage container to claim a credit against the individual or corporate income tax (as applicable) equal to the sum of the following:

- One-half cent per returnable container sold during the tax year; for the 2021 tax year and subsequent tax years, the amount of the credit would have to be adjusted by the percentage increase in the United States Consumer Price Index for all urban consumers as defined and reported by the United State Department of Labor, Bureau of Labor Statistics for the immediately preceding calendar year.
- The refund value per returnable container over-redeemed during the tax year as established under the beverage container deposit law.

"Distributor", "beverage container", and "returnable container" would mean those terms as defined in the beverage container deposit law. (Under the law, "distributor" means a person who sells beverages in beverage containers to a dealer within the State and includes a manufacturer who engages in such sales. "Beverage container" means an airtight metal,

glass, paper, or plastic container, or a container composed of a combination of these materials, which, at the time of sale, contains one gallon or less of a beverage. "Returnable container" means a beverage container upon which a deposit of at least 10 cents has been paid, or is required to be paid upon the removal of the container from the sale or consumption area, and for which a refund of at least 10 cents in cash is payable by every dealer or distributor in the State of that beverage in beverage containers.)

The taxpayer would have to attach the report required under Section 3a of the beverage container deposit law to the annual return on which a credit was claimed. (Section 3a requires a distributor or manufacturer who originates a deposit to issue to the Department of Treasury a report on the deposits originated and the refunds granted on beverage containers.)

If the credit exceeded the taxpayer's tax liability for the tax year, the portion exceeding the tax liability would have to be refunded.

Concerning the tax imposed under Part 1, if the distributor were a partnership, limited liability company, or S corporation, the credit could be claimed against the partner's, member's, or shareholder's tax liability under Part 1 based on the partner's, member's, or shareholder's proportionate share of ownership or based on an alternative method approved by the Department of Treasury.

House Bill 4444 (H-1)

The beverage container deposit law establishes the Bottle Deposit Fund and requires the Department of Treasury to deposit the money paid to it by underredeemers (manufacturers or distributors who collect more in deposits than they pay out as refunds for returned containers) into the Fund. The Department must disburse the money in the Fund annually as follows:

- 75% to the Cleanup and Redevelopment Trust Fund.
- 25% to dealers based on the number of empty returnable containers handled by a dealer as determined by the department.

Under the bill, for the annual disbursement for 2020, 2021, and 2022, if the amount paid by underredeemers for a calendar year exceeded \$50.0 million, the Department could disburse an amount from the Bottle Deposit Fund that was the difference between the total amount paid by underredeemers and \$50.0 million to the General Fund for credits claimed under the Income Tax Act (which would be established under House Bill 4443) for the corresponding year. The remaining balance of the Bottle Deposit Fund would be disbursed in the same manner as described above.

Proposed MCL 206.279 & 206.679 (H.B. 4443)
MCL 445.573c (H.B. 4444)

Legislative Analyst: Christian Schmidt

FISCAL IMPACT

House Bill 4443

The bill would reduce General Fund revenue by \$42.0 million in fiscal year (FY) 2021-22 and approximately \$21.0 million per year thereafter. The bill would be retroactive to the 2020 tax year. Given the bill's potential effective date and the necessity for taxpayers to file amended returns to claim credits for tax year 2020, the bill is not anticipated to have any impact until FY 2021-22, when credits for both tax years 2020 and 2021 are likely to be claimed.

House Bill 4444 (H-1)

The bill would have a negative fiscal impact on the Cleanup and Redevelopment Trust Fund and a positive fiscal impact on the General Fund for FY 2019-20 if the amount paid by underredeemers in the Bottle Deposit Fund were over \$50.0 million in 2021 or 2022.

Of the amount remaining in the Bottle Deposit Fund from underredeemers, 75% is disbursed to the Cleanup and Redevelopment Trust Fund annually and 25% is distributed annually to dealers. In FY 2019-20, the Bottle Deposit Fund had a balance of \$107.0 million, of which, \$80.3 million was disbursed to the Cleanup and Redevelopment Fund. Under the bill, the Cleanup and Redevelopment Fund would receive only \$37.5 million, which would be a reduction of \$42.8 million. The bill instead would distribute \$57.0 million to the General Fund to pay for the credit claimed under House Bill 4443, \$37.5 million to the Cleanup and Redevelopment Trust Fund, and \$12.5 million to dealers. If the balance of the Bottle Deposit Fund exceeded \$50.0 million in 2021 or 2022, the Cleanup and Redevelopment Fund similarly would receive a reduced disbursement while the General Fund would experience an increase.

The bill would authorize transfers from the Bottle Deposit Fund to the General Fund only for 2020, 2021 and 2022. While the Bottle Deposit Fund balance for FY 2019-20 was \$107.0 million, in previous years the balance has rarely exceeded \$50 million. Anticipated bottle redemption patterns in 2021 and 2022 suggest the balance is unlikely to exceed \$50.0 million in either of those years.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.