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House Bill 5570 (Substitute H-2 as passed by the House)  
Sponsor: Representative Steven Johnson  
House Committee: Tax Policy  
Senate Committee: Committee of the Whole

*(Senate-passed version)*

Date Completed: 3-15-22

## **CONTENT**

**The bill would amend the Motor Fuel Tax Act to do the following:**

- **Specify that, beginning April 1, 2022, through September 30, 2022, the tax on motor fuels and alternative fuels would be zero cents per gallon.**
- **Prohibit a person other than an end user from enriching themselves from the proposed rate reduction and require the reduction to be passed on to the end user.**

### Motor Fuels; Tax Reduction

The Act generally imposes a tax on motor fuel imported into or sold, delivered, or used in Michigan. Effective on January 1, 2022, the rate of the tax is 27.2 cents per gallon. Each subsequent January, the Department of Treasury must adjust the motor fuel tax rate by the lesser of 5.0% or the rate of inflation. ("Motor fuel" means gasoline, diesel fuel, kerosene, a mixture of gasoline, diesel fuel, or kerosene, or a mixture of gasoline, diesel fuel, or kerosene and any other substance. Motor fuel does not include leaded racing fuel.)

Under the bill, beginning April 1, 2022, through September 30, 2022, the tax rate on motor fuel would be zero cents per gallon. In making the determination for the annual adjustment of the motor fuel tax, the Department could not consider this decrease; however, the increased rate prescribed above would not apply while the zero cents-per-gallon rate applied.

Beginning with the rate in effect on January 1, 2022, and each subsequent January 1, the Department must publish notice of the tax rate at least 30 days before the rate's effective date. Under the bill, the notice would have to be published at least 30 days before the rate's effective date or 30 days before the rate would take effect if not for the application of the zero cents-per-gallon rate proposed under the bill, whichever was earlier.

The Act states certain intentions of the Act, e.g., that is the intent of the Act to require those who operate a motor vehicle on Michigan's public roads or highways to pay for the privilege of doing so. The bill states that it is the intent of the Act "[t]hat end users receive the benefit of the reduction in taxes resulting from the application of" the bill. The bill also would prohibit a person other than an end user from enriching themselves from a reduction in the rate proposed

under the bill; the bill would require the reduction to be passed on to the end user. (A person who violates the Act is guilty of a misdemeanor unless a specific penalty is provided.<sup>1</sup>)

### Alternative Fuels; Tax Reduction

The Act generally imposes a tax at a rate per gallon equal to the tax on motor fuels on alternative fuels used in Michigan. Under the bill, if the tax on motor fuels is zero cents per gallon as proposed under the bill, then the tax on alternative fuels would be zero cents per gallon. ("Alternative fuel" means a gas, liquid, or other fuel that, with or without adjustment or manipulation such as adjustment or manipulation of pressure or temperature, is capable of being used for the generation of power to propel a motor vehicle, including natural gas, compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, hydrogen compressed natural gas, or hythane. Alternative fuel does not include motor fuel, electricity, leaded racing fuel, or an excluded liquid (as that term is defined under Federal regulations).)

MCL 207.1008 & 207.1152

Legislative Analyst: Jeff Mann

### **FISCAL IMPACT**

The bill would reduce fiscal year (FY) 2021-22 revenue to the Michigan Transportation Fund (MTF) by approximately \$750.0 million. Revenue to the MTF is distributed according to Public Act 51 of 1951, and reductions most likely would reduce distributions to the Comprehensive Transportation Fund (CTF), the State Trunkline Fund (STF), and to local units of government. These reductions could affect a number of programs.

The bill would reduce revenue to the CTF by approximately \$75.0 million. The CTF funds transit programs, including bus and rail passenger programs, and freight rail programs. For the current year, CTF appropriations are authorized at \$362.7 million, meaning a \$75.0 million reduction could mean a reduction in CTF programs or spending of 20.7%.

The bill also would reduce the STF by approximately \$263.9 million, or about 20.6%. The Michigan Department of Transportation (MDOT) uses the STF to pay for multiple spending priorities, including debt, highway maintenance, and road and bridge construction on trunkline roads. The bill would be unlikely to affect payments on current-year debt obligations; however, the loss of STF revenue could result in MDOT's needing to cancel a majority of scheduled road projects for the remainder of the fiscal year. Because MDOT must spend its annual STF allotment first on debt service (\$168.0 million), and must also fulfill its STF obligations to State counties for highway maintenance (\$425.9 million) and MDOT-wide employee and administrative expenses, the only remaining area that could be cut in the current year would be road and bridge construction for trunkline roads. A reduction of \$263.9 million STF to this line item in MDOT's budget would mean an almost 60% reduction in restricted funding for road and bridge construction. The Department of Transportation uses this funding to match annual Federal funding obligations. The bill could jeopardize the State's ability to provide sufficient matching funds during the current fiscal year and the State could risk losing some, perhaps most, of its Federal transportation funding for FY 2021-22 road and bridge programs.

While the bill would not affect current-year debt service payments, because the State relies on the Michigan Constitution's dedication of motor fuel tax revenue to the MTF to back any

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<sup>1</sup> Under Section 504 of the Penal Code, if a person is convicted of a crime designated to be a misdemeanor for which no punishment is specially prescribed, that person is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500, or both.

bond issues, the bill could result in lower bond ratings (and higher interest costs) for future bonding for road projects.

The bill also would reduce current year funding for local units of government for road and bridge projects on local roads. Public Act 51 recipients of MTF include two categories: county road commissions, and cities and villages. Counties would lose 22.5% of the current-year authorized spending, or \$263.9 million of the \$1.17 billion in authorized spending for FY 2021-22. The loss for cities and villages would be \$147.2 million, or 22.5%, of the current-year appropriation amount of \$652.7 million. The losses to local government road and bridge construction spending could result in canceled projects in the current fiscal year.

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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.