Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: H.B. 176 of the 131st G.A.

Date: June 26, 2015

Status: As Reported by House Ways and Means

Sponsor: Reps. Hall and S. O'Brien

Local Impact Statement Procedure Required: Yes

Contents: To create the Gaseous Fuel Vehicle Conversion Program, to allow a credit against the income or commercial activity tax for the purchase or conversion of an alternative fuel vehicle, to temporarily reduce the amount of sales tax due on the purchase or lease of a qualifying electric vehicle by up to $500, to make changes to the motor fuel tax as applied to sales of compressed natural gas, liquid natural gas, and propane used as motor fuel, to allow motor vehicles fueled by liquid natural gas to exceed gross vehicle weight limits by two thousand pounds, and to make an appropriation

State Fiscal Highlights

STATE FUND	FY 2016	FY 2017	FUTURE YEARS
General Revenue Fund			
Revenues	Potential loss	Loss, potentially in the tens of millions	Loss, potentially in the tens of millions for four more years
Expenditures	Increase of $16 million, transferred to Fund 5NP0	Increase of $16 million, transferred to Fund 5NP0	Increase of $16 million annually through FY 2020, transferred to Fund 5NP0
Gaseous Fuel Vehicle Conversion Fund (Fund 5NP0)			
Revenues	Gain of $16 million, transferred from GRF	Gain of $16 million, transferred from GRF	Gain of $16 million, transferred from GRF, annually, subject to General Assembly action
Expenditures	Increase up to amount of revenue to the fund, to pay administrative costs, and to fund new grant program	Increase up to amount of revenue to the fund, to pay administrative costs, and to fund new grant program	Increase up to amount of revenue to the fund, to pay administrative costs, and to fund new grant program
Highway Operating Fund (Fund 7002) and other state funds			
Revenues	Potential loss	Loss	Loss for at least one more year, followed by gains
Expenditures	- 0 -	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2016 is July 1, 2015 – June 30, 2016.

- Allowing a nonrefundable tax credit for the purchase or conversion of an alternative fuel vehicle against either the state personal income tax (PIT) or the commercial activity tax (CAT) would reduce receipts from those taxes. The credit is available for vehicles purchased or converted within 60 months of the effective date of the bill.

Tax credits starting at $5,000 per vehicle, or half the adjusted purchase price (whichever is less), could add up to revenue losses in the tens of millions or more.

- The state GRF would bear 96.68% of the revenue loss from the PIT credit, and also from a reduction in state sales and use tax (see below). The remaining 3.32% would be borne by the Local Government Fund (LGF) and the Public Library Fund (PLF).
- Currently, 50% of revenue from the CAT is credited to the GRF. The remaining revenue is deposited into the School District Tangible Property Tax Replacement Fund and the Local Government Tangible Property Tax Replacement Fund and used to reimburse school districts and other local governments for the reductions and phase-out of local taxes on tangible personal property. If CAT receipts are insufficient to make required reimbursements, the GRF is required to subsidize those reimbursements.
- Allowing a reduction of up to $500 in the amount of sales tax on the purchase or lease of a qualified electric vehicle will reduce state sales and use tax revenue by approximately $1.2 million per year for five years.
- The bill creates a new fund, the Gaseous Fuel Vehicle Conversion Fund (Fund 5NP0), in the state treasury. The bill specifies that the Environmental Protection Agency (EPA) is to use money in the fund solely to make grants under a new program, the Gaseous Fuel Vehicle Conversion Program; grants would go to state agencies, political subdivisions, school districts, public transit systems, or certain nonprofit corporations. Any interest earned from money in the fund must be used to administer the program. The EPA may incur approximately $100,000 in additional administrative costs to administer the program. Any such costs would be paid from interest earned from money in Fund 5NP0. The bill appropriates $16 million in each of FY 2016 and FY 2017 to line item 715695, Gaseous Fuel Vehicle Conversion Program (Fund 5NP0), for the purposes of the new program. The Director of Budget and Management is required to make transfers of corresponding amounts each year from the GRF to Fund 5NP0. The bill declares the intent of the General Assembly to continue to appropriate up to $16 million each in FYs 2018, 2019, and 2020 from Fund 5NP0.
- Exempting liquid natural gas and propane used as motor fuel from the state motor fuel tax (MFT) for three years would reduce MFT revenue for the exemption period by up to $1 million or more. This would reduce revenue to various state funds, primarily the Highway Operating Fund (Fund 7002). Currently, about 35% of MFT revenue is distributed to local governments, i.e., counties, municipalities, and townships.[1]

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[1] Based on the FY 2014 MFT distribution, about 65% of MFT revenue was distributed to the Ohio Department of Transportation and various other state agencies and the remaining 35% was distributed to counties, municipalities, and townships. Source: Ohio Department of Transportation.

- Adding compressed natural gas used as motor fuel to the MFT after three years would eventually increase revenue from the tax, reversing the effects noted in the preceding bullet.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2015	FY 2016	FUTURE YEARS
Counties, municipalities, and townships			
Revenues	Potential loss	Loss	Loss for at least one more year, followed by gains
Expenditures	- 0 -	- 0 -	- 0 -
Transit Authorities			
Revenues	Loss	Loss	Loss for three more years, followed by no change
Expenditures	- 0 -	- 0 -	- 0 -

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- Exempting liquid natural gas and propane used as motor fuel from the state MFT for three years would reduce revenue from that tax by up to $1 million or more. Approximately 35% of MFT revenue is distributed to local governments, i.e., counties, municipalities, and townships.
- Including compressed natural gas under the MFT after a three-year phase-in period would eventually increase MFT revenue, reversing the effects noted in the preceding bullet.
- The bill reduces by up to $500 the amount of sales tax on the purchase or lease of a qualified electric vehicle. The reduction will reduce county permissive and transit authority sales tax revenue by approximately $0.5 million per year for five years.
- As noted above, revenue losses to the state GRF from the PIT credit and CAT credit could reach into the tens of millions annually. If the revenue loss reached $10 million in a year, that would result in a decrease of $166,000 in revenue to the LGF, which would reduce revenue to counties, municipalities, and townships. The PLF would experience a revenue loss of the same amount.

Detailed Fiscal Analysis

The bill creates a new program for the purpose of promoting the conversion of public fleets to operate on cleaner fuels, contains several provisions related to various taxes, and makes appropriations.

Gaseous Fuel Vehicle Conversion Program

The bill creates a new program, the Gaseous Fuel Vehicle Conversion Program, to be administered by the Environmental Protection Agency (EPA), for the purpose of promoting the conversion of public fleets to operate on cleaner fuels. The bill specifies that the Director of Environmental Protection may make grants to a state agency, a political subdivision of the state, a school district, a public transportation system, or a nonprofit corporation (as defined in section 1702.01 of the Revised Code) for the conversion of a vehicle to operate on gaseous fuel or for the incremental cost associated with the purchase of a vehicle originally equipped by the manufacturer to operate on gaseous fuel. The bill requires the Director to adopt necessary rules related to the administration of the program, including application procedures and grant eligibility requirements.

The bill creates a new fund, the Gaseous Fuel Vehicle Conversion Fund (Fund 5NP0), in the state treasury. The bill specifies that Fund 5NP0 would consist of money transferred to the fund by the General Assembly. The bill specifies that the money in the fund must be used solely to make grants under the program and any interest earned from money in the fund must be used to administer the program.

The bill appropriates $16 million in each of FY 2016 and FY 2017 to line item 715695, Gaseous Fuel Vehicle Conversion Program (Fund 5NP0), for the purposes of the new program. The bill requires the Director of Budget and Management to transfer $16 million in cash from the GRF to Fund 5NP0 in each of FY 2016 and FY 2017. The bill also declares the intent of the General Assembly to make future appropriations of $16 million each in FY 2018, FY 2019, and FY 2020, for appropriation item 715695.

Fiscal effect

The new program would lower costs to those eligible entities (e.g., state agencies, political subdivisions, and school districts) to acquire vehicles that operate on compressed natural gas (CNG), liquefied natural gas (LNG), or liquid petroleum gas (LPG). The program would receive $16 million per year for five years to help lower such costs. Transfers from the GRF of $16 million each year would reduce GRF resources available for other programs. The bill also includes language stating that the General Assembly intends to appropriate up to $16 million each in FYs 2018, 2019, and 2020 from Fund 5NP0.

The bill may increase EPA's administrative costs to administer the Gaseous Fuel Vehicle Conversion Program. The bill allows the EPA to use any interest earned from money in Fund 5NP0 for administrative purposes related to the program. According to an EPA official, the estimated administrative cost to implement the new program is about $100,000 in FY 2016. In addition, there could be additional computer programming and help desk costs and possible costs associated with required consultation among the EPA's staff.

Alternative fuel vehicle tax credit

The bill allows a nonrefundable tax credit for the purchase or conversion of an alternative fuel vehicle against either the personal income tax (PIT) or commercial activity tax (CAT), but not both. "Alternative fuel vehicle" is defined to be one that operates on CNG, LNG, or LPG, including dual-fuel vehicles that can operate on either one of the alternative fuels or conventional gasoline or diesel fuel. The credit is available for vehicles purchased within 60 months of the effective date of the bill. The bill specifies that a taxpayer may claim the credit for the taxable year or tax period in which the taxpayer purchases the new vehicle or the conversion parts and equipment. The taxpayer may carry the credit forward to future years or tax periods until it is fully used if the credit exceeds the taxpayer's tax liability for that year or tax period. The bill also specifies that an equity owner of a pass-through entity that purchases or converts a vehicle is allowed to claim the proportionate or distributive share of the credit against the PIT.

The bill provides that the amount of the credit equals 50% of the adjusted purchase price of the new alternative fuel vehicle or 50% of the cost of equipment and parts needed to convert a traditional fuel vehicle. The credit for either a purchase or a conversion is limited to the following amounts:

1. If the vehicle has a gross vehicle rating of 8,500 pounds or less, $5,000;
2. If the vehicle has a gross vehicle rating of between 8,500 and 10,000 pounds, $10,000;
3. If the vehicle has a gross vehicle rating of more than 10,000 pounds, $25,000.

Fiscal effect

The tax credit provisions would reduce receipts from the PIT and from the CAT. The amount of revenue loss in each taxable year would directly depend on the costs to purchase or convert an alternative fuel vehicle, the number of alternative fuel vehicles purchased or converted, expenses of equipment and parts needed to convert a traditional fuel vehicle to an alternative fuel vehicle, and the amount of taxpayers' liabilities. The demand or number of alternative fuel vehicles that may be purchased or converted would depend on future prices of alternative fuels compared with traditional fuels (i.e., gasoline and diesel fuel).

Based on U.S. Energy Information Administration (EIA) data on vehicles using CNG, LNG, or LPG, in Ohio there were a total of 3,777 and 4,038 vehicles, in 2010 and 2011, respectively, reflecting a 7% increase. In addition, according to a study prepared for the Florida Natural Gas Vehicle Coalition,[2] the only fully CNG alternative fuel vehicle available to consumers in the U.S. is the Honda Civic GX, which costs roughly $6,935 more than its gasoline powered equivalent. The cost of converting a gasoline engine for a passenger car to CNG is significantly higher than the incremental cost for the Civic GX, ranging between $12,500 and $18,500. In addition, a CNG truck costs $63,600 more than the diesel equivalent prior to any incentives. The cost per alternative vehicle is effectively reduced by the tax credit limit of between $5,000 and $25,000, depending on gross vehicle rating.

If the number of vehicles using CNG, LNG, or LPG in Ohio grows by 7% annually and assuming the tax credit limit of between $5,000 and $25,000, the estimated potential revenue loss from this tax credit would be between $1.4 million and $7.1 million. To the extent the bill succeeds in stimulating sales of alternative fuel vehicles, however, the revenue loss could be substantially higher. Since the tax credits may cut in half the incremental cost of an alternative fuel vehicle, economic theory holds that the number of vehicle sales could increase substantially. Sales could easily rise to 2,000 units per year, or significantly higher, implying a revenue loss in the tens of millions annually.

Currently, the state GRF would bear 96.68% of the revenue loss under the PIT while the remaining 3.32% would be borne by the Local Government Fund (LGF) and Public Library Fund (PLF). The LGF is used to distribute money to counties, municipalities, and townships; the PLF is used to distribute money primarily to public libraries. In addition, under existing law, the GRF receives 50% of CAT revenues while the remaining CAT receipts are deposited into the School District Tangible Property Tax Replacement Fund (35%) and the Local Government Tangible Property Tax Replacement Fund (15%). The deposits in non-GRF funds are used by the state to reimburse school districts and other local governments for the reductions and phase-out of local taxes on tangible personal property. Currently, the GRF is required to subsidize the required reimbursements if CAT receipts are insufficient. As a result, the GRF may bear additional revenue loss.

Sales tax reduction related to electric vehicles

The bill allows a reduction of up to $500 in the amount of sales and use tax owed or due on the purchase or lease of a qualified electric vehicle after the bill's effective date, but before the first day of the fifth year after the effective date. Under the bill, the reduction applies to the purchase or lease of one qualified vehicle per year if the vehicle

[2] *Economic Impact of Incentives to Facilitate Compressed Natural Gas Vehicles in Florida*, dated August 1, 2012.

is purchased or leased for personal use by an individual taxpayer, and to the purchase or lease of up to ten qualified vehicles if the vehicle is purchased or leased for business.

Fiscal effect

The sales and use tax reduction would reduce the state sales and use tax. Currently, the state sales and use tax rate is 5.75%. In addition, the reduction would reduce receipts from county permissive and transit authority sales taxes. The rates for county permissive sales and transit authority sales taxes range from 0.25% up to 2.25%.

Based on EIA data on electric vehicles, in 2011 there were 528 electric vehicles in Ohio. However, according to various automotive manufacturers' announcements, the production of electric vehicles may experience a steep increase over the next few years. According to a state-by-state projection of future sales of electric vehicles by the Center for Automotive Research,[3] Ohio consumers might purchase 3,344 electric vehicles in 2014.

Based on the estimated number of electric vehicles and assuming that each vehicle would qualify for the maximum reduction of $500,[4] the estimated total revenue loss would be about $1.7 million per year, for five years. Approximately $1.2 million of the total revenue loss would be borne by the state while the remaining $0.5 million would be borne by counties and transit authorities. Estimated revenue losses may be lower if sales were below the projections above. Actual revenue loss would depend on the number of qualified electric vehicles purchased or leased during the period of the tax reduction, and the purchase price for each vehicle.

Currently, all state sales and use tax revenues are distributed to the GRF. As explained above, any revenue loss to the GRF would also decrease the amount of tax revenue that would be deposited in the LGF and the PLF, which each receive a monthly transfer of 1.66% of total GRF tax receipts received the preceding month. Any revenue loss to the LGF and PLF will decrease distributions to each county and local subdivision.

Taxation of compressed natural gas, liquid natural gas, and propane under the motor fuel tax

The bill expands the definition of motor fuel to include CNG, on a delayed basis, for the purpose of the state motor fuel tax (MFT), thereby subjecting CNG to the MFT if it is to be used to fuel vehicles on public roads in Ohio. The taxation of CNG under the MFT is effective beginning after three years after the bill's effective date. The change in definition also has the effect of shifting the gross receipts from the sale of CNG from the

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[3] *Deployment Rollout Estimate of Electric Vehicles, 2011-2015*, Center for Automotive Research, January 2011.

[4] Assuming the estimated price of $30,000 per electric vehicle, and using the mode of total state, county permissive, and transit authority sales and use tax rate of 7.25%, the amount of state and local sales taxes would yield more than $2,175 per vehicle. The Nissan Leaf (about 62% of electric vehicle sales year-to-date in 2011) reportedly sells for about $33,000. Prices for the Chevrolet Volt (about 38% of sales) exceed $40,000.

CAT to the recently enacted petroleum activity tax (PAT). The bill exempts LNG and propane used as motor fuel, currently taxed under the MFT, from the tax for three years. Currently, the state levies a total of 28¢ in MFT on each gallon of motor fuel used, distributed, or sold within the state and used to operate motor vehicles on public highways in the state.[5] The MFT is paid by wholesalers, distributors, and refiners who distribute fuel in Ohio.

The bill specifies that the MFT on CNG must be measured in gallon equivalents. For CNG that is received through a dispenser capable of providing a measurement in pounds, the gallon equivalent standard is 6.38 pounds of CNG. For all other CNG, the gallon equivalent standard is 139.3 cubic feet of CNG or the amount of CNG that has a lower heating value of 129,500 British thermal units (BTUs).

After the three-year delay, the bill phases in the MFT rate for CNG, LNG, and propane over seven years, beginning after the third year of this bill's effective date. In the first year of the phase-in period, the rate equals 5¢ per gallon. The rate is increased by 1¢ per gallon in each of the second and third year of the phase-in period. The rate remains equal to 7¢ per gallon for three years. The rate is increased to 14¢ per gallon for the following two years. After the seventh year of the phase-in period, the rate increases to the full 28¢-per-gallon rate. Under the bill, all MFT revenues collected both during and after the phase-in period are to be credited and distributed in the same proportion and manner as existing MFT allocations.

Currently, the MFT consists of five separate levies with each of the levies distributed based on (its own separate) statutory formula. Generally, before any other distributions are made, the first 2% of MFT receipts must be distributed to the Highway Operating Fund (Fund 7002), in the Department of Transportation's budget. Then, MFT receipts are distributed to the following state agencies: Department of Natural Resources (0.875% to the Waterways Safety Fund, Fund 7086 and 0.125% to the Wildlife Boater Angler Fund, Fund 5P20), Department of Taxation (0.275% to the Motor Fuel Tax Administrative Fund, Fund 5V70), $100,000 to the Public Utilities Commission of Ohio (the Grade Crossing Protection Fund, Fund 4A30), a sufficient amount to meet all debt service payments for highway bonds is transferred to Fund 7002, and 5¢ for each gallon sold at stations operated by the Ohio Turnpike and Infrastructure Commission is transferred to the Commission. The remainder of MFT revenue is distributed to Fund 7002 and local governments (counties, municipalities, and townships). In addition, the equivalent of 1¢ of the total 28¢ tax rate of MFT revenue, about $64 million, is distributed to local governments through grants under the Local Transportation Improvement Program (LTIP), which is administered by the Public Works Commission.

[5] Currently, school districts, educational service centers, or a county board of developmental disabilities may apply for a refund of 6¢ per gallon of motor fuel purchased for their operations.

Fiscal effect

The three-year exemption of LNG and propane from the MFT would reduce receipts from that tax during the exemption period by up to $1 million or more. After the subsequent phase-in period, the taxation of CNG as a motor fuel would increase MFT revenue. During the phase-in period, there would be some loss of revenue initially, followed by an increase in revenue. The shift of taxation of gross receipts from the sale of CNG from the CAT to the PAT may increase PAT revenue, but decrease CAT revenue. PAT replaced the CAT as applied to the sale or exchange of motor fuel. PAT revenue arising from the sale of motor fuel used on public highways is used for public highway purposes, generally from amounts transferred to the Petroleum Activity Tax Public Highways Fund (Fund 5NZ0).

The shift of taxation of gross receipts from the sale of CNG from the CAT to the PAT may also increase or decrease total state tax receipts. The CAT tax rate is 0.26% of taxable gross receipts (that exceed $1 million), and the tax will apply at all sales transactions within the supply chain. The PAT tax rate is 0.65% and the tax is applied only once on the basis of gross receipts received by a "supplier." Whether revenue increases or decreases would depend on the number of participants in the supply chain or point at which CNG is taxed. That may differ from firm to firm, depending on the degree of vertical integration of the firm; it would also depend on the market shares of the different firms, to the extent that their degrees of vertical integration differ. As explained above, the GRF receives 50% of CAT revenue; the School District Tangible Property Tax Replacement Fund (Fund 7047) and the Local Government Tangible Property Tax Replacement Fund (Fund 7081) receive 35% and 15% of CAT revenue, respectively. CAT receipts that are deposited into these two local government funds are used to reimburse school districts and other units of local government for lost revenues from the phase-out and reductions in tangible personal property taxes on general business. Current law also requires a GRF subsidy if distributions to the funds are insufficient for the required reimbursements.

According to the EIA, Renewable and Alternative Fuels, Alternative Fuel Data, 731,000 in thousand gasoline-equivalent gallons (GEGs) of CNG were consumed in Ohio in 2011. Of the total amount, 355,000 GEGs, or about 49% were consumed by transit authorities in Ohio. Currently, transit authorities are eligible for a full refund on MFT paid on motor vehicle fuel. Thus, the estimated annual consumption of CNG that would have been taxable is 376,000 GEG. Based on the consumption data, LSC staff assumed that potential impact of this provision would be relatively small.

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