OHIO LEGISLATIVE SERVICE COMMISSION

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Office of Research and Drafting

Legislative Budget Office

H.B. 165
134th General Assembly

Fiscal Note & Local Impact Statement

Click here for H.B. 165's Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. McClain

Local Impact Statement Procedure Required: No

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Highlights

Fund	FY 2023	FY 2024	Future Years
State General Revenue Fund*			
Revenues	Loss between $0.9 million and $2.0 million	Loss between $1.1 million and $2.1 million	Losses to increase approximately 2% annually until FY 2026
Local Government and Public Library funds (counties, municipalities, townships, and public libraries)			
Revenues	Loss up to $34,000 each	Loss up to $36,000 each	Losses to increase approximately 2% annually until FY 2026

*Should taxpayers file for the credit against the commercial activity tax as opposed to the personal income tax, the credit will also reduce revenue to the School District Tangible Property Tax Replacement Fund and the Local Government Tangible Property Tax Replacement Fund, offsetting a portion of losses to the GRF.

- Providing a nonrefundable tax credit of 5¢ per gallon of "higher ethanol blend" fuel sales under the personal income tax (PIT) or the commercial activity tax (CAT) would reduce revenue to the GRF through FY 2026. Revenue losses after FY 2026 would be due solely to previously unused carryforward credits.
- Losses of tax revenue to the GRF result in revenue losses to the Local Government Fund (LGF) and Public Library Fund (PLF), which under current law would resume receiving 1.66% of GRF tax revenue each, starting July 1, 2021.

Detailed Analysis

The bill allows for a tax credit of 5¢ per gallon of higher ethanol blend gasoline sales, to be taken against the personal income tax (PIT) or against the commercial activity tax (CAT). The credit applies to "higher ethanol blend" gasoline, defined in the bill as fuel comprised of between 15% and 85% ethanol.[1] The credit is allowable during four consecutive taxable years, beginning with the calendar year after the year in which the bill is enacted. The credit is nonrefundable, thus any unused portions are not paid out in the form of a refund. However, the unused credit can be carried forward to each subsequent tax year until the entirety of the credit's value is exhausted.

Fiscal analysis

The bill is anticipated to create a revenue loss of between $0.9 million and $2.0 million in FY 2023, assuming the bill takes effect in calendar year (CY) 2021 and the first credits are claimed for tax year 2022. The revenue loss would primarily impact the GRF, and is projected to grow about 2% per year through FY 2026. However, any credits claimed against the CAT will also reduce revenue to the School District Tangible Property Tax Replacement Fund (Fund 7047, which receives 13% of revenue from the CAT) and the Local Government Tangible Property Tax Replacement Fund (Fund 7081, 2% of CAT revenue).[2] Funds 7047 and 7081 are used to reimburse school districts and other political subdivisions for losses of property tax revenue due to the phase out of the tangible personal property tax on general business. The payment amounts are pre-determined, and any revenue to the funds not needed to make the payments is transferred to the GRF.

In addition, the bill will create losses of up to $34,000 each for the Local Government Fund (LGF) and the Public Library Fund (PLF) in FY 2023. Under current law, the LGF and PLF are to receive 1.66% of GRF tax revenue, the allocation in codified law, beginning July 1, 2021. LGF revenue is distributed to counties, municipalities, townships, and special districts statewide; revenue to the PLF is distributed primarily to public libraries statewide. In the fiscal analysis, LBO assumes the bill is enacted in CY 2021. The credit is applicable to ethanol retail sales occurring through CY 2025, thus significant revenue losses will cease after FY 2026.[3]

Data considerations and assumptions

While data on ethanol production and sales is available from a variety of sources, the data generally do not differentiate between ethanol utilized in "higher ethanol blend" fuel and ethanol mixed in normal proportions with unleaded gasoline, which comprises the vast majority of ethanol sold in the U.S. In particular, both the U.S. Energy Information Administration (EIA) and the Renewable Fuel Association (RFA) provide total consumption and production estimates for ethanol, but provide little detail as to the percentage composition of ethanol in the end product.

[1] Most gasoline sold at retail service stations contains approximately 10% ethanol.

[2] The losses to each fund will be determined by the percentage of total ethanol credits taken against the PIT and CAT. LBO is unable at this time to determine the tax against which the credits will be taken.

[3] Losses will continue after FY 2026 if credits are carried forward from previous years.

The above estimates utilize two data sources. The lower bound estimate is based on a private research study of ethanol gallonage in Ohio produced by Stillwater Research, LLC. The upper bound estimates are calculated by LBO utilizing reported sales of E15 and E85 in the state of Minnesota, adjusting the Minnesota gallonage totals by the ratio of ethanol fueling stations in each state. The upper bound estimates assume consumers of "higher ethanol blend" gasoline in Ohio and Minnesota have the same ethanol consumption behavior aside from convenience to ethanol-providing retail service stations. The above estimates also assume that consumption of "higher ethanol blend" gasoline grows just over 2% per year.[4]

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[4] EIA Annual Energy Outlook 2021 Table A17, average annual growth rate of ethanol used in E85 and gasoline blending from CY 2021-CY 2024; https://www.eia.gov/analysis/projection-data.php.